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United States
Circuit Court of Appeals
For the Ninth Circuit

R. J. RICHARDS,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of Record

Upon Petition to Review an Order of the United States
Board of Tax Appeals.

FILED

MAY 29 1935

PAUL P. O'BRIEN,

United States
Circuit Court of Appeals
For the Ninth Circuit

R. J. RICHARDS,

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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Docket No. 52,848

R. J. RICHARDS,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

APPEARANCES.

C. E. McDOWELL, Esq.,

For Taxpayer.

JOHN H. PIGG, Esq.,

ELDEN McFARLAND, Esq.,

For Commissioner.

DOCKET ENTRIES.

1931

Feb. 14—Petition received and filed. Taxpayer notified. (Fee paid.)

Feb. 16—Copy of petition served on General Counsel.

Apr. 7—Answer filed by General Counsel.

Apr. 13—Copy of answer served on taxpayer. Circuit Calendar.

1933

Aug. 2—Hearing set for week of Sept. 11, 1933, at Long Beach, California.

Sept. 18—Hearing had before Mr. Marquette, Div. 1 on merits. Submitted on stipulation of facts. Stipulation of facts filed. Petitioner's brief due Oct. 18, 1933. Commissioner's brief due Nov. 4, 1933. Reply

1933

due Nov. 24, 1933. Board to serve copies.
Called Sept. 11.

Oct. 18—Brief filed by taxpayer 10/31/33 copy served.

Nov. 4—Brief filed by General Counsel.

Nov. 20—Reply brief filed by taxpayer. 11/21/33 copy served.

1934

Jan. 29—Opinion rendered, Mr. Marquette, Div. 1.
Judgment will be entered for the Commissioner.

July 12—Decision entered, Div. 1. Mr. Marquette.

Sept. 28—Stipulation for review by U. S. Circuit Court of Appeals for the Ninth Circuit filed.

Sept. 28—Petition for review by U. S. Circuit Court of Appeals (9) with assignments of error filed by taxpayer.

Sept. 28—Proof of service filed by taxpayer.

Oct. 31—Motion for extension of 30 days to prepare statement and transmit record filed by taxpayer.

Oct. 31—Order enlarging time to Dec. 28, 1934, to complete and transmit record entered.

Dec. 17—Statement of evidence lodged.

Dec. 17—Notice of lodgment of statement filed.

Dec. 17—Motion for extension of 30 days to prepare and transmit record filed by taxpayer.

Dec. 17—Order enlarging time to Jan. 28, 1935, to complete and transmit record entered.

1935

- Jan. 24—Motion for extension of 30 days to approve statement and transmit record filed by taxpayer.
- Jan. 24—Order enlarging time to Feb. 27, 1935, to complete and transmit record entered.
- Feb. 25—Motion for extension of 30 days from Feb. 28, 1935, to complete and transmit record filed by taxpayer.
- Feb. 25—Order enlarging time to March 30, 1935, to prepare evidence and transmit record entered. [1]*

1935

- Mar. 25—Praecipe with proof of service thereon filed by taxpayer.
- Mar. 25—Agreed statement of evidence approved and ordered filed.
- Mar. 29—Order enlarging time to April 30, 1935, for transmission and delivery of record entered. [2]

*Page numbering appearing at the foot of page of original certified Transcript of Record.

United States Board of Tax Appeals.

Docket No. 52,848

R. J. RICHARDS,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION.

The above named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (IT:AR:E-1. RCC-60D) dated December 18, 1930, and as a basis for his proceeding alleges as follows:

1. That your petitioner is an individual with his residence at 1211 West Avenue, Pasadena, California.

2. That notice of deficiency (a copy of which is attached and marked Exhibit "A") was mailed to the petitioner on December 18, 1930.

3. The taxes in controversy are income taxes for the calendar year 1927 and for \$486.69; and for the year 1928 and for \$12,552.81.

4. The determination of tax set forth in said notice of deficiency is based upon the following errors: [3]

(1) In the foregoing notice of deficiency is disclosed an over-assessment of \$3863.20 for the year 1926 and for which a claim for refund has

heretofore been filed by the petitioner. That petitioner consents to the allowance of such refund and makes no claim of error as to the determination by the Commissioner of Internal Revenue as to the correct tax liability of your petitioner for the year 1926.

(2) The erroneous holding by the Commissioner of Internal Revenue that the income received by petitioner for the calendar years 1927 and 1928 from three real estate trusts designated Nos. 2-1780, 2-1850 and 2-1899, in which trusts the Security-First National Bank of Los Angeles, Guaranty Office (as successor to the Security Trust & Savings Bank) is trustee, is not taxable under Sections 208 and 101 of the Revenue Acts of 1926 and 1928, respectively.

(3) The increase by the Commissioner of Internal Revenue under the foregoing erroneous conclusion of the tax liability of your petitioner for the year 1927 from the sum of \$19,644.87 to the sum of \$20,131.56, and for the year 1928 from the sum of \$14,600.30 to the sum of \$27,153.11.

(4) The determination by the Commissioner of Internal Revenue that the purpose for which an asset is being [4] held at the time of its sale is determinative of the taxable status of such asset, either as a capital asset or otherwise.

(5) The holding by the Commissioner of Internal Revenue that the fact that certain assets have once been established in the status of capital assets under said Sections 208 and 101, respectively, is

immaterial in determining the amount of tax to be paid by your petitioner.

(6) The holding that petitioner was engaged in any business in which the real estate constituting the corpus of said trusts was held primarily for sale.

(7) The holding by the Commissioner of Internal Revenue that the real estate constituting the corpus of said trusts, or any other real estate, was sold by petitioner during the years 1927 and 1928 in the course of any business.

(8) The holding by the Commissioner of Internal Revenue that the profits derived by the petitioner from the sale of real estate in said trusts above mentioned during the years 1926, 1927 and 1928 is not returnable as a capital net gain.

(9) The refusal by the Commissioner of Internal Revenue to permit petitioner to treat the net profits from the sale of lots in said trusts, at his option, either as ordinary net income or capital net gain. [5]

(10) The holding that the determination by the Commissioner of Internal Revenue for the year 1925 that the income from such trusts is taxable as capital net gain does not control the same issue for subsequent years.

5. The facts upon which petitioner relies as a basis of this proceeding are as follows:

a. That the petitioner now resides and has his principal place of business at 1211 West Avenue,

Pasadena, California. That prior thereto and during the year 1929 petitioner had his residence and office at 5162 Whittier Boulevard, Los Angeles, California. That prior to such time petitioner resided and had his office in Chicago, Illinois, and that all returns involved in this affidavit were joint returns made by petitioner for himself and wife.

b. That prior to the year 1920 and at all times since, the petitioner has been engaged in the business of raising, packing, buying and marketing lettuce, cauliflower and other farm products. That during all of such time petitioner has carried on said business under the firm name and style of W. M. Watson & Co., and since the year 1927 has carried on a similar business as a co-partner under the name of M. C. Wahl & Co. [6]

c. That petitioner has never engaged in the real estate business or in the business of buying, selling or subdividing real estate, nor has petitioner ever been a dealer in real estate, nor licensed as a salesman or broker under the laws of the State of California, or elsewhere, to buy or sell real estate, nor is petitioner a member of any real estate board or other organization of persons engaged in the purchase and sale of real estate, nor has petitioner any place of business from which he carries on or conducts any real estate business or the buying and selling of real estate, nor has petitioner ever made purchases or sales or dealt in any way with real estate for third persons.

d. That on or about the 15th day of September, 1920, Taxpayer acquired from Ysidora Coutts Fuller, by deed dated June 29, 1920, title to approximately forty-seven (47) acres of real estate in the County of Los Angeles, as is more particularly described in the deed by which title was conveyed to petitioner, a copy of which deed is attached to this petition and marked Exhibit "B". That said property referred to in said deed is for convenience hereinafter referred to as "Parcel 1".

e. That on or about the 30th day of April, 1921, petitioner acquired from one Pearl Holmgreen, by deed dated April 21, 1921, approximately four (4) acres immediately adjacent to and lying to the west of said Parcel 1, which [7] real property is more particularly described in the deed by which said petitioner acquired said title, a copy of which deed is attached hereto and marked Exhibit "C", and the parcel of land therein described is hereafter described as "Parcel 2".

f. That thereafter, on or about the 11th day of March, 1922, petitioner acquired title from the Winter Investment Company, by deed dated February 8, 1922, to certain real property adjacent to said Parcels 1 and 2, and lying to the south thereof, which said property is more particularly described in said deed, a copy of which is hereto attached and marked Exhibit "D". Said real property last mentioned is hereinafter referred to as "Parcel 3".

g. That said property, when purchased by petitioner, was purchased by him to use in raising lettuce and other farm products, and was held and used by petitioner for that purpose, and that said real property was not at any time purchased or held by petitioner primarily or at all for sale in the course of petitioner's trade or business, or otherwise.

h. That said real property was located not far from the City of Los Angeles, State of California, and after the purchase of said property the population of the City of Los Angeles increased very rapidly, and [8] other parcels of real estate located between said real property and the City of Los Angeles were subdivided, sold and populated, and increasing taxes, charges and assessments were levied against said real property, and said real property increased in value to such an extent that the further owning and operating of said property for the purpose of raising lettuce, cauliflower and other farm products, or any other use in the business of petitioner was unprofitable, and petitioner determined upon the sale of said property and the purchase of other property more suited for the transaction of petitioner's business.

i. That the business of petitioner required his absence from the City and County of Los Angeles during a considerable portion of each year, and as a matter of convenience for the sale of said real property, petitioner created from time to time three trusts designated as Nos. 2-1780, 2-1850 and 2-1899.

with the Guaranty Office of the Security Trust & Savings Bank, at Los Angeles, California. That said bank has since been succeeded by the Security-First National Bank of Los Angeles, a national banking association. That in the opinion of your petitioner, your petitioner was able to obtain a larger return from the sale of said property by subdi- [9] viding the same, rather than by selling the same in larger parcels, and for that reason your petitioner did subdivide said property and did employ one P. N. Snyder, a real estate agent and broker, to sell and dispose of the same.

j. That Trust No. 2-1780 was created by your petitioner on or about the 15th day of July, 1925, and to the said bank under the terms of said trust your petitioner conveyed a portion of Parcel 1. That thereafter sales were made of lots in said subdivision and the method of sale proving satisfactory to petitioner, petitioner, on or about August 6, 1926, created said Trust No. 2-1850 with said bank and conveyed thereto the remaining portion of said Parcel 1, all of Parcel 2 and a portion of Parcel 3. That thereafter lots were sold under said trust, and the method of sale proving satisfactory to your petitioner, petitioner did thereafter, on or about January 12, 1927, convey the remaining portion of said Parcel 3 to said bank in trust under said Trust No. 2-1899.

k. That audits had been made under the direction of the Commissioner of Internal Revenue of each and all of said three trusts, and said audits

have determined the amount of profit for the years 1926, 1927 and 1928, received by [10] the petitioner from each and all of said trusts, and your petitioner has accepted as correct the amount of profit only, as determined by said audit as the result of the sales of the property in each of said trusts.

l. That in the sale of lots in said three parcels above mentioned petitioner took no active part, but the promotion, advertising and sale of said lots was handled by the said P. N. Snyder in such a manner and to such an extent that the general public believed that the said P. N. Snyder was the owner of said property.

m. That said trusts were created by petitioner as a matter of convenience for the handling of sales contracts, collections and conveyances of the property above described, and that said trusts and the actions of the trustee thereon were subject to the order of the petitioner, and that said trusts have been varied from time to time as and when directed by the petitioner, and that the placing of said property in trust did not in any way limit the management, direction or control by the petitioner of the unsold portions of the property.

n. That the real property above described was all held by the petitioner for more than two (2) years prior to the sale of any portion thereof, and was not at any time during said period when the same was held by the petitioner [11] prior to the creation of said trusts held by the petitioner primarily or at all for sale during any of said period

of time, and that by reason thereof, at the time petitioner created each and all of said trusts the property placed by petitioner in each of said trusts had at the time it was so placed by petitioner become a "capital asset" and did thereafter retain and hold such character as a capital asset, and the sale of said property in lots or parcels, instead of as a whole, did not change the character of any portion of said real property from that of a "capital asset", nor did it make any taxable gain from the sale of said real property other than capital net gain.

o. That on or about December 17, 1928, the then acting Commissioner of Internal Revenue did enter into an agreement with the petitioner as to the final determination of taxability of your petitioner for the year 1925, and that in said agreement said acting Commissioner of Internal Revenue did recognize and determine that for the year 1925 the taxable income from the sale of said real property sold during said year 1925 was from the sale of "capital assets", and petitioner's tax liability for the year 1925 was thereupon computed accordingly, and that said determination hav- [12] ing been once made by the Commissioner of Internal Revenue, is thereafter binding upon the Treasury Department and the petitioner.

WHEREFORE, your petitioner prays that this Board may hear the proceedings and determine that the income received by your petitioner during the years 1927 and 1928 from the sale of said real estate in said Trusts No. 2-1780, 2-1850 and 2-1899 is tax-

able as a capital net gain and not as ordinary taxable income, and that the finding of the Commissioner of Internal Revenue that there is a deficiency chargeable against your petitioner for the year 1927 in the sum of \$486.69, and for the year 1928 in the sum of \$12,552.81 be vacated and found to be not in accordance with the Revenue Acts of 1926 and 1928.

C. E. McDOWELL,
Counsel for Petitioner
922 Security Title Ins. Bldg.,
Los Angeles, California.

[13]

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

R. J. RICHARDS, being duly sworn, says that he is the petitioner named in the foregoing petition; that he has read the foregoing petition and is familiar with the statements contained therein, and that the facts stated are true, except as to those facts stated to be upon information and belief, and those facts he believes to be true.

R. J. RICHARDS.

Subscribed and sworn to before me this 9th day of February, 1931.

[Notarial Seal]

MURIEL P. MONTGOMERY,
Notary Public in and for the County
of Los Angeles, State of California.

My Commission Expires Feb. 10, 1932. [14]

EXHIBIT "A"

Dec. 18, 1930

IT:AR:E-1

RCC-60D

Mr. R. J. Richards,

5162 Whittier Boulevard,

Los Angeles, California.

Sir:

You are advised that the determination of your tax liability for the years 1926, 1927 and 1928 discloses a deficiency of \$13,039.50 for the years 1927 and 1928 and an overassessment of \$3,863.20 for the year 1926, as shown in the statement attached.

In accordance with section 274 of the Revenue Act of 1926 and section 272 of the Revenue Act of 1928, notice is hereby given of the deficiency mentioned. Within sixty days (not counting Sunday as the sixtieth day) from the date of the mailing of this letter, you may petition the United States Board of Tax Appeals for a redetermination of your tax liability for the years in which a deficiency is disclosed.

HOWEVER, IF YOU DO NOT DESIRE TO PETITION, you are requested to execute the enclosed agreement form and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of IT:C:P-7. The signing of this agreement will expedite the closing of your returns by permitting an early assessment of any deficiency and preventing the accumulation of interest charges, since the interest period terminates thirty days after filing the enclosed agreement, or on the date assess-

ment is made, whichever is earlier; WHEREAS IF NO AGREEMENT IS FILED, interest will accumulate to the date of assessment of the deficiency.

Respectfully,
DAVID BURNET,
Commissioner
By, (Signed) W. T. SHERWOOD,
Acting Deputy Commissioner.

Enclosures:
Statement
Form 882
Form 874

[15]

STATEMENT

IT:AR:E-1
RCC-60D

In Re: Mr. R. J. Richards,
5162 Whittier Boulevard,
Los Angeles, California.
Tax Liability

Year	Corrected	Tax		Deficiency
	Tax Liability	Previously Assessed	Overas- sessment	
1926	\$ 4,669.40	\$ 8,532.60	\$3,863.20	
1927	20,131.56	19,644.87		\$ 486.69
1928	27,153.11	14,600.30		12,552.81
Totals	\$51,954.07	\$42,777.77	\$3,863.20	\$13,039.50

Further reference is made to the reports of the internal revenue agent in charge, Los Angeles, California, covering an investigation of your income

tax liability for the years 1926, 1927 and 1928, to protests filed with the agent in charge and this office, also conferences held in the office of the agent in charge on January 11, 1930, and in this office on October 31, 1930, both with your representative, Mr. C. E. McDowell.

You are advised in connection with your contentions against the inclusion of income received from real estate trusts as ordinary income subject to both normal and surtax instead of treating amounts as capital net gain subject to tax at 12½%, that this office has consistently held that purpose for which an asset is being held at time of sale is determinative of the taxable status of the asset. The mere fact that a certain asset has once been established in the status of a capital asset within the meaning of sections 208 and 101 of the Revenue Acts of 1926 and 1928 respectively is immaterial. For the foregoing reasons this office is of the opinion that you were engaged in the business during the period involved and that the realty in question was held primarily for sale in the course of such business. Further, that the profit in dispute realized by you during the years involved is not taxable under the provisions of sections 208 and 101 of the Revenue Acts of 1926 and 1928, respectively.

Your contention that the closing agreement entered into for the year 1925 in which income from these trusts was taxed at capital net gain rates controls the issue for subsequent years is also denied for the reason that the closing agreement in question relates to the year 1925 only and has no

relation whatever to the treatment of income for any subsequent year. [16]

Mr. R. J. Richards

Statement.

This office holds that the income in question falls within the provisions of Section 704(b) of the Revenue Act of 1928 and General Counsel's Memorandum 6630, Cumulative Bulletin VIII-2, page 179. The adjustments as made by the examining officer are, therefore, sustained.

Your claim for refund for the year 1926 has been considered and allowed in its adjustment.

1926

Net income reported on return		\$68,260.79
Add:		
1 Reduction in loss from		
business	\$ 9,228.87	
2 Trust income	85,299.79	94,528.66
	<hr/>	<hr/>
Total		\$162,789.45
Deduct:		
3 Gain on sales		114,471.48
		<hr/>
Net income adjusted subject to surtax		\$ 48,317.97
Less:		
Dividends	\$ 463.97	
Interest on Liberty Bonds	1,310.44	
Personal exemption and		
credit for dependents	3,900.00	5,674.41
	<hr/>	<hr/>
Balance subject to normal tax		\$ 42,643.56

Normal tax at $1\frac{1}{2}\%$ on \$4,000.00	\$ 60.00
Normal tax at 3% on \$4,000.00	120.00
Normal tax at 5% on \$34,643.56	1,732.18
Surtax on \$48,317.97	2,761.34
<hr/>	
Total	\$ 4,673.52
Less:	
Earned income credit	4.12
<hr/>	
Correct tax liability	\$ 4,669.40
Tax previously assessed	8,532.60
<hr/>	
Overassessment	\$ 3,863.20
	[17]

Mr. R. J. Richards

Statement

Explanation of Changes

1. This item represents reduction in depreciation, interest and taxes paid in the amounts of \$1,696.69, \$1,200.94 and \$7,421.43, respectively, less sales overstated in the amount of \$417.30 and amortization of the building erected on leased ground in the amount of \$472.89.

2. This item represents income received through trust transferred from line 6 of the return.

3. This item represents trust income eliminated from line 6.

1927

Net income reported on return		\$157,158.99
Add:		
1. Income from trust		144,953.58
		<hr/>
Total		\$302,112.57
Deduct:		
2. Business loss increased \$ 4,337.81		
3. Trust income	181,585.22	
4. Contributions	200.00	186,123.03
	<hr/>	<hr/>
Adjusted net income		\$115,989.54
Less:		
Dividends	\$ 1,836.03	
Interest on Liberty Bonds	298.07	
Personal exemption and credit for dependents	3,900.00	6,034.10
	<hr/>	<hr/>
Balance subject to normal tax		\$109,955.44
Normal tax at 11½% on \$4,000.00		\$ 60.00
Normal tax at 3% on \$4,000.00		120.00
Normal tax at 5% on \$101,955.44		5,097.77
Surtax on \$115,989.54		14,857.91
		<hr/>
Total		\$ 20,135.68

[18]

Mr. R. J. Richards	Statement.
Brought forward	\$ 20,135.68
Less:	
Earned income credit	4.12
	<hr/>
Correct tax liability	\$ 20,131.56
Tax previously assessed	19,644.87
	<hr/>
Deficiency	\$ 486.69

Explanation of Changes

1. This item represents corrected income received through trusts transferred from line 6 of the return.

2. This item represents increase in loss sustained through partnerships of Wahl and Company and Wahl and Richards.

3. This item represents an increase allowed in contributions.

1928

Net income reported on return	\$ 16,315.38
Add:	
Income from real estate trusts	129,908.62
	<hr/>
Adjusted net income	\$146,224.00
Less:	
Dividends	\$3,571.12
Interest on Liberty Bonds	350.00
Personal exemption and credit for dependents	3,900.00
	<hr/>
Balance subject to normal tax	\$138,402.88

Normal tax at 1½% on \$4,000.00	\$ 60.00
Normal tax at 3% on \$4,000.00	120.00
Normal tax at 5% on \$130,402.88	6,520.14
Surtax on \$146,224.00	20,904.80

Total tax	\$ 27,604.94
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[19]

Mr. R. J. Richards

Statement.

Brought Forward

\$ 27,604.94

Less:

Earned income credit	451.83
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Corrected tax liability	\$ 27,153.11
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Tax previously assessed	14,600.30
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Deficiency	\$12,552.81
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The overassessment shown herein will be made the subject of a certificate of overassessment which will reach you in due course through the office of the collector of internal revenue for your district and will be applied by that official in accordance with section 284 of the Revenue Act of 1926.

A copy of this letter has been mailed to your representative, Mr. C. E. McDowell, 724 Pacific Finance Building, Los Angeles, California, who has on file in this office a duly recorded power of attorney.

GB-2

[20]

EXHIBIT "B"

GRANT DEED

I, YSIDORA COUTS FULLER, a widow, in consideration of TEN and 00/100 Dollars, to me in hand paid, the receipt of which is hereby acknowledged, do hereby GRANT to ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, husband and wife, as Joint Tenants, with the right of survivorship, all that real property situate in the County of Los Angeles, State of California, described as follows:

All that certain portion of the Rancho Laguna, so-called, in the Rancho San Antonio, County of Los Angeles, State of California, described as follows:

Beginning at an iron pipe, set in the Southerly line of the Whittier Road, at the most Easterly corner of Lot Twenty-one (21), Rancho Laguna, and running thence along the Easterly line of said Lot Twenty-one (21), South twenty-six degrees (26°) eighteen minutes ($18'$) twenty seconds ($20''$) West, thirteen hundred eight and twenty-two hundredths (1308.22) feet to an iron pipe set at the most Southerly corner of said Lot Twenty-one (21); thence along the Southerly line of said Lot Twenty-one (21) and Lot Twenty (20), North seventy-five degrees (75°) thirty-seven minutes ($37'$) West thirteen hundred thirty-one and fifty-seven hundredths (1331.57) feet to an iron pipe set at a point six hundred sixty-four and forty-nine hundredths (664.49) feet, North seventy-five (75°)

thirty-seven minutes (37') West from the most Westerly corner of said Lot Twenty-one (21); thence North fourteen degrees (14°) twenty-three minutes (23') East twelve hundred eighty (1280) feet to an iron pipe set in the Southerly line of the Whittier Road, at a point six hundred sixty-four and forty-nine hundredths (664.49) feet North seventy-five degrees (75°) thirty-seven minutes (37') West from the most Northerly corner of said Lot Twenty-one (21); thence along the Southerly line of said Whittier Road, South seventy-five degrees (75°) thirty-seven minutes (37') East sixteen hundred one and eighty-two hundredths (1601.82) feet to the point of beginning.

The same comprising the Easterly part of Lot Twenty (20), and all of Lot Twenty-one (21) as delineated on a map entitled Map of the Rancho Laguna and thereon marked with the name of "Ysidora Coutts Fuller", said map being the map filed as Exhibit "A" in connection with the Referee's Report in Action No. B-25296 of the Superior Court in Los Angeles County, entitled Ysidora Coutts Fuller vs. Cave J. Coutts et al.

SUBJECT TO: Taxes for the fiscal year 1920-21 **TO HAVE AND TO HOLD** to the said grantees, as Joint Tenants, with [21] the right of survivorship.

WITNESS my hand this 29th day of June, 1920.

YSIDORA COUTS FULLER.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

On this Eleventh day of September, 1920, before me, W. F. Cook, a Notary Public in and for said County, personally appeared YSIDORA COUTS FULLER, a widow known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same.

WITNESS my hand and Official Seal.

[Notarial Seal] W. F. COOK,
Notary Public in and for the County
of Los Angeles, State of California.

COMPARED

DOCUMENT— LUFKIN
BOOK— EASTON

RECORDED AT REQUEST OF LOS ANGELES
TITLE INS. CO. Sep. 15 1920 at 8:30 A.M. in
Book 7306, Page 332 of Deeds Records, Los Angeles
County, Cal.

C. L. LOGAN, County Recorder.

I certify that I have correctly transcribed this document in above mentioned book.

C. HUNTER,
Copyist, County Recorder's Office,
L. A. Co., Cal. [22]

EXHIBIT "C".
GRANT DEED.

I, Pearl Holmgreen, a single woman: in consideration of TEN DOLLARS to me in hand paid, the

receipt of which is hereby acknowledged, do hereby GRANT TO Robert James Richards and Arabella Grace Richards, husband and wife, as joint tenants; all that real property situate in the County of Los Angeles, State of California, described as follows:

Beginning at an iron pipe set in the Southerly line of the Whittier Road, at a point 664.49 feet North $75^{\circ} 37'$ West from the most northerly corner of Lot 21, Rancho Laguna, and running thence South $14^{\circ} 23'$ West 1280 feet to an iron pipe set in the southerly line of Lot 20, Rancho Laguna, at a point 664.49 feet from the most Westerly corner of said Lot 21; thence along the Southerly line of said Lot 20 North $75^{\circ} 37'$ West 138.06 feet to an iron pipe; thence North $14^{\circ} 23'$ East 1280 feet to an iron pipe set in the Southerly line of the Whittier Road; thence along the Southerly line of Whittier Road, South $75^{\circ} 37'$ East 138.06 feet to the point of beginning,—the same comprising a portion of Lot 20, as delineated on said Map, Exhibit "A", attached to the Final Decree in Partition in Action No. B-25296 of the Superior Court of Los Angeles County, a certified copy of which Decree is recorded in Book 6387 of Deeds, page 1, Records of Los Angeles County, California, containing 4,057 acres.

SUBJECT TO taxes for the fiscal year 1921-1922; TO HAVE AND TO HOLD to the said grantees in joint tenancy WITNESS my hand this 21st day of April, 1921.

PEARL HOLMGREEN. [23]

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

On this 21st day of April, 1921, before me, F. H. Greene, a Notary Public in and for said County, personally appeared Pearl Holmgreen, a single woman; known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same.

WITNESS my hand and Official Seal.

[Notarial Seal]

F. H. GREENE,

Notary Public in and for the County of Los Angeles, State of California.

COMPARED.

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RECORDED AT REQUEST OF TITLE INSURANCE & TR. CO. Apr 30 1921 at 8:30 A. M. in Book 185 Page 307 of Official Records, Los Angeles County, Cal.

C. L. LOGAN, County Recorder.

I certify that I have correctly transcribed this document in above mentioned book.

M. CHICK,

Copyist, County Recorder's Office, L. A. Co., Cal.

[24]

EXHIBIT "D"

GRANT DEED.

(Code) Corporation.

WINTER INVESTMENT COMPANY,

of the City and County of Los Angeles, State of California, a Corporation duly organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City of Los Angeles, County of Los Angeles, and State of California, FOR AND IN CONSIDERATION OF THE SUM OF Ten and NO/100 Dollars, the receipt whereof is hereby acknowledged, does hereby GRANT TO ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, his wife, as joint tenants with right of survivorship:

ALL THAT REAL PROPERTY, described as follows, to-wit: All that certain portion of the Rancho Laguna, so called, in the Rancho San Antonio, County of Los Angeles, State of California, described as follows: Beginning at an iron pipe set in the Northerly line of Lot Twenty-three (23), Rancho Laguna, at a point four hundred ninety-eight and eighty-five hundredths (498.85) feet North seventy-five degrees (75°) thirty-seven minutes (37') West from the most Easterly corner of said Lot Twenty-three (23), and running thence South fourteen degrees (14°) twenty-three minutes (23') West twenty hundred forty-four and sixty-nine hundredths (2044.69) feet to an iron pipe set in the

North Easterly line of Anaheim Telegraph Road at a point eight hundred forty-seven and thirty hundredths (847.30) feet South sixty-one degrees (61°) twenty minutes (20') forty-five seconds (45'') East from the most Westerly corner of said Lot Twenty-three (23); thence along the North Easterly line of the Anaheim Telegraph Road North sixty-one degrees (61°) twenty minutes (20') forty-five seconds (45'') West eight hundred forty-seven and thirty hundredths (847.30) feet to an iron pipe at the most Westerly corner of said Lot Twenty-three (23); thence North fourteen degrees (14°) twenty-three minutes (23') East along the Westerly line of said Lot Twenty-three (23) eighteen hundred thirty-five and eighty-three hundredths (1835.83) feet to an iron pipe set in the Northerly corner of said Lot Twenty- [25] three (23); thence along the dividing line between Lots Twenty (20) and Twenty-three (23) South seventy-five degrees (75°) thirty-seven minutes (37') East eight hundred twenty-one and fifteen hundredths (821.15) feet to the point of beginning. The same comprising the Westerly portion of Lot Twenty-three (23), as delineated on a map entitled "Map of the Rancho Laguna" and thereon marked with the name of "John F. Coutts", said map being the map filed as Exhibit "A" in connection with the Referee's Report in Action No. B-25296 of the Superior Court in Los Angeles County, entitled Ysidora Coutts Fuller vs. Cave J. Coutts, et al, and attached to Final Decree of Partition of said Action, a

certified copy of which decree is recorded in Book 6387 Page 1 et seq., of Deeds in the office of the County Recorder of said County.

IN WITNESS WHEREOF, the said party of the first part has caused its corporate name and seal to be affixed by its President and Secretary thereunto duly authorized this 8th day of February, nineteen hundred and twenty-two.

[Corporate Seal]

WINTER INVESTMENT COMPANY,
BY GEORGE F. WINTER,

President,

BY FRANK C. WINTER,

Secretary.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

ON THIS 10th day of February A. D., 1922, before me, Margaret F. Brennan, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared George F. Winter known to me to be the President and Frank C. Winter known to me to be the Secretary of the Winter Investment Company, the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] MARGARET F. BRENNAN,
Notary Public in and for said County and State.
[26]

COMPARED.

DOCUMENT.....
BOOK.....

WICKS
McEWEN

RECORDED AT REQUEST OF TITLE INSURANCE & TR. CO. Mar 11 1922 at 8:30 A. M.
In Book 963 Page 92 of Official Records, Los Angeles County, Cal.

C. L. LOGAN, County Recorder.

I certify that I have correctly transcribed this document in above mentioned book.

C. FLETCHER,

Copyist, County Recorder's Office, L. A. Co., Cal.
[Endorsed]: Filed February 14, 1931. [27]

[Title of Court and Cause.]

ANSWER.

The Commissioner of Internal Revenue, by his attorney, C. M. Charest, General Counsel, Bureau of Internal Revenue, for answer to the petition of the above-named taxpayer, admits and denies as follows:

1. Admits that the petitioner is an individual and denies any knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 1 and therefore denies the same.

2. Admits the allegations contained in Paragraph 2.

3. Admits the allegations contained in Paragraph 3.

4. (1) Answering Subparagraph (1) of Paragraph 4 of the petition, the respondent says that the Board has no jurisdiction of the tax liability of the petitioner for the year 1926, with respect to which the respondent has determined an over-assessment as set forth in deficiency notice, a copy of which is attached to the petition as Exhibit A.

(2) (3) (4) (5) (6) (7) (8) (9) (10). Denies that he erred in determining the tax set forth in said notice of deficiency and further denies that he erred as alleged in Paragraphs 4(1) to 4(10) of the petition.

5. Denies each and every material allegation contained in Paragraphs 5(a) to 5(o) of the petition which is inconsistent with or contrary to the determination of the respondent as set forth in the statement accompanying the notice of deficiency, which is attached to and made a part of the petition, as Exhibit A.

6. Denies generally and specifically each and every material allegation [28] contained in tax-

payer's petition not hereinbefore admitted, qualified or denied.

WHEREFORE, it is prayed that the taxpayer's appeal be denied.

(Signed) C. M. CHAREST,
General Counsel,
Bureau of Internal Revenue.

JOHN H. PIGG,
Special Attorney,
Bureau of Internal Revenue,
Of Counsel.

k 4-4-31

[Endorsed]: Filed April 7, 1931. [29]

United States Board of Tax Appeals.

Docket No. 52848. Promulgated June 29, 1934.

R. J. RICHARDS,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

A taxpayer who owned land which had been devoted to farming purposes and which became too valuable for those purposes, through agents employed by him, subdivided and improved it, and after advertisement sold the lots. This course continued through at least three years. Held, that the

lots were held by the taxpayer primarily for sale in the course of his business and that he is not entitled to the benefits of sections 208 of the Revenue Act of 1926 and 101 of the Revenue Act of 1928.

C. E. McDowell, Esq., for the petitioner.

Elden McFarland, Esq., for the respondent.

OPINION.

MARQUETTE: The respondent has determined deficiencies in income tax for the years 1927 and 1928 in the respective amounts of \$486.69 and \$12,-552.81. The only issue is whether certain real estate sold in the taxable years constituted capital assets within the meaning of section 208 (a) (8) of the Revenue Act of 1926, and section 101 (c) (8) of the Revenue Act of 1928.

This proceeding was submitted upon a stipulation of the parties to the effect that two affidavits of the petitioner, one dated October 20, 1930, together with exhibits thereto attached, and the other dated September 15, 1933, might be received in evidence, and that the respondent agreed that if the petitioner was called as a witness he would testify as set forth in the affidavit. However, respondent did not agree that all of the facts and conclusions stated in the affidavits were correct. The affidavits and exhibits are made a part of this report.

The material facts are that the petitioner and his wife made joint income tax returns for the years before us, and that the real property involved was

acquired by them as joint tenants with the right of survivorship. Since prior to 1920 the petitioner, for himself or [30] as a member of a partnership, has been engaged in the business of raising, packing, buying, and marketing farm products, particularly lettuce. About September 15, 1920, petitioner and his wife acquired title to approximately 47 acres of land in Los Angeles County, California. About April 30, 1921, they acquired another tract adjoining the above tract, containing about 4 acres. About March 11, 1922, they acquired title to a third piece of land adjacent to the foregoing tracts. These tracts of land at the time of acquisition lay in a very productive farming area and were used by the petitioner in the raising of lettuce and sometimes chicory and endive. They were surrounded by farm lands producing these same vegetables. The products of these adjacent lands, together with the products of the petitioner's own lands, enabled him to make shipments in car-load lots.

In 1921 the petitioner erected buildings and other structures on not over three and one half acres of these lands, which were thereafter used by him as a combined office and residence.

After the petitioner acquired these properties there was a great deal of real estate activity in the lands between his property and the boundary of the city of Los Angeles. The intervening property began to be subdivided and sold, with the result that the petitioner's property rapidly increased in

value until it arrived at a value in excess of \$4,000 an acre without improvements. Taxes and assessments for local improvements also increased. The taxes on this property in 1920 were \$657.84 and for 1924 were \$5,903.22, in addition to which the petitioner was required to pay \$4,479.95 in 1924 on account of special assessments. This rise in prices made the use of these lands and the adjacent lands for gardening purposes unprofitable, and in this way deprived the petitioner of a base from which to ship the vegetables in carload lots.

In 1925 petitioner determined to subdivide a part of the first parcel of land which he had purchased. In pursuance of this plan on July 15, 1925, he conveyed a portion of the property to the Security Trust & Savings Bank of Los Angeles (now Security Trust National Bank of Los Angeles) hereinafter referred to as the bank, which accepted it in trust to secure a note of \$28,500 which petitioner and his wife owed the bank, and upon further trust to subdivide and sell the property conveyed. Under the deed of trust petitioner and his wife agreed to pay all taxes and assessments levied on the property, to pay principal and interest on all indebtedness secured by the trust, to pay all claims, liens and encumbrances and defend all suits affecting the property, to pay for all improvements ordered by him or his agent, and to file with the trustee a copy of each contract for improvements to be placed on the property. [31] The property was to be subdivided and improved by the petitioner and his wife.

The deed contained provisions which permitted the trustee, upon default of petitioner and his wife in paying the above amounts, to pay them itself, and gave it recourse against the property. The trustee was authorized to rent, sell and convey the property or any part thereof to such persons and at such times as it deemed best, provided the sale prices of the lands should not be less than those indicated in the schedule to be filed with the deed. The proceeds received from the sales were to be used to pay commissions and to release liens, the balance to go in what was termed a general fund, out of which the cost and expenses of the trust and certain other expenses were to be paid, and what remained over was to be paid to the petitioner and his wife. The deed recites that at the request of the petitioner and his wife it appointed P. N. Snyder "as their exclusive agent to subdivide and improve, and to solicit and obtain purchasers for such part of said property" as was subdivided. He was paid a commission, out of which he was to pay for advertising and other selling expenses of himself and his subagents. Among the duties assumed by the agent was the general care and custody of the subdivided property, and of all improvements placed upon the property, which included the installation of gas, water and electricity. The trustee was not required to procure any insurance on any building upon the property, or to collect or disburse any rentals therefrom. These duties were to be performed by the petitioner and his wife.

Upon payment in full of the indebtedness secured by the deed and at the request in writing of petitioner and his wife, the trustee was given authority to close and terminate the trust, but was not required to do so as long as any of the covenants contained in any deed remained unperformed. The petitioner and his wife furnished the trustee a list of the minimum prices at which the lots were to be sold. The number of lots was 186. The minimum price was \$1,250 and the maximum price was \$40,000 per lot.

The sales of lots in the first subdivision having proved satisfactory, petitioner determined to subdivide other portions of the property above described. By deed of August 6, 1926, the bank accepted in trust property previously conveyed. The provisions of this trust deed resembled the one of July 15, 1925. Afterward, the petitioner and his wife determined to subdivide and sell the remaining portion of the property purchased as hereinabove set forth, and by deed of trust dated January 12, 1927, the bank accepted such property on practically the same trusts as those provided in the deed of July 15, 1925. [32]

The principal reason for the above conveyances was to have all deeds on lots promptly executed, especially in the absence of the petitioner from Los Angeles. The number of lots in the second subdivision above set forth was 82. The number of lots in the third subdivision was 152. In the third subdivision the minimum price for the lots was

\$1,200 and the maximum was \$15,000. Under each of the deeds, Snyder was appointed by the bank as petitioner's exclusive agent, at their request, for a term of eight months, with the right to serve eight months more upon achieving certain results, and upon the termination of his employment the trustee was to appoint as agent for the petitioner and his wife such person as they directed, all sales, however, to be subject to the approval of the trustee of the bank. The petitioner's business of producing, packing and selling lettuce and other vegetables increased from year to year, and he substituted, either by lease or purchase, farming properties for the properties which he subdivided. The petitioner, himself, has never taken part in the subdivision or the sale of the lots in the subdivisions, all of which was done by Snyder. Except as herein set forth, the petitioner has never engaged in the business of buying and selling real estate or dealt therein. He has not been licensed as a broker to buy or sell real estate.

The petitioner seeks to have the gain derived from the sale of the lots in his subdivisions taxed under the provisions of section 208 of the Revenue Act of 1926 and section 101 of the Revenue Act of 1928. The only issue is whether the lands from which the lots were carved constituted "capital assets" as that term is defined in the above sections. Section 208 (a) (8) of the Revenue Act of 1926 provides:

The term "capital assets" means property held by the taxpayer for more than two years (whether

or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale in the course of his trade or business. * * *

Section 101 (c) (8) of the Revenue Act of 1928 is not materially different. If we eliminate the intervention of the trustee, it is clear that petitioner and his wife at the dates of the various sales had held the lands for more than two years. We do not think the fact that when the sales were made the legal title was in the trustee, is material. The conveyances were made for two purposes—first, to secure the bank, which was also trustee, for its loan then made to petitioner and his wife and to secure it for the advances thereafter to be made, and, second, to facilitate the execution and delivery of deeds to purchasers of the lots in the absence of the petitioner. On them, as individuals, remained the duty of paying all taxes and liens [33] and advancing the money with which to pay the cost of subdivision and improvements and of insurance on the improvements. After paying the debts secured by the deeds and the cost and expenses of the trust and of the sales, what was left, corpus and income, was to be paid to the petitioner and his wife. The petitioner and his wife possessed all the substantial rights of ownership. The lands were held by them within the meaning of the above provisions. Car-

rie E. Molter, 19 B.T.A. 911; *affd.*, 60 Fed. (2d) 498; San Martinez Oil Co., 25 B.T.A. 218.

Real estate may not be included in inventory. Willard Pope, 28 B.T.A. 1255, and cases cited. The facts show, and counsel for the petitioner concedes, that the lots were held primarily for sale. There remains for solution the question whether they were so held by the petitioner "in the course of his * * * business".

The fact that the petitioner was in the business of producing and marketing vegetables did not preclude him from engaging in another distinct business. Counsel for the petitioner concedes this and such is the law. Ignaz Schwinn, 9 B.T.A. 1304; John D. Roney, 26 B.T.A. 1213, *affd.*, 67 Fed. (2d) 165. Neither do we think it is material that these lands, which were the individual properties of the petitioner and his wife, were once used by them in the farming business. Such use was abandoned and the lands were devoted to a very different purpose. There is nothing in the sections involved which makes any reference to the purpose for which the assets were acquired. To illustrate, one may, as here, own land devoted to farming and, having discovered minerals below the surface, proceed to mine and dispose of the minerals. The fact that he once used the land in connection with farming does not detract from the fact that he thereafter used it in the business of mining.

We may here dispose of the issue raised by the petitioner that in disposing of the lots by sale he

was liquidating his business of farming, or at least a part of it. He relies on Trustees for the Creditors and Stockholders of Gonzolus Creek Oil Co. (dissolved), 12 B.T.A. 310; Wilson Syndicate Trust, 14 B.T.A. 508; Dauphin Deposit Trust Co., Trustee, 21 B.T.A. 1214; G. F. Sloan, 24 B.T.A. 61; Blair v. Wilson Syndicate Trust, 36 Fed. (2d) 43; White v. Hornblower, 27 Fed. (2d) 277. We do not perceive the relevancy of these cases. Not only has the petitioner not liquidated his business of farming, but, as we read the record, he has enlarged it. What he has done is to take certain assets individually owned and devoted them to a new purpose.

Cleared of all obscurities, the issue is whether in doing this the petitioner engaged in a business. In attempting to define this term we said, in Willard Pope, *supra*: [34]

In Flint v. Stone Tracy Co., 220 U.S. 107, the Court said:

“Business” is a very comprehensive term and embraces everything about which a person can be employed. Black’s Law Dict. 158, citing *People ex rel. Hoyt v. Tax Comrs.*, 23 N.Y. 242, 244. “That which occupies the time, attention, and labor of men for the purpose of a livelihood or profit.” 1 Bouvier’s Law Dict. p. 273.

On the other hand, isolated transactions do not constitute the carrying on of a trade or business. *Mente v. Eisner*, 266 Fed. 161; *Bedell v. Commissioner*, 30 Fed. (2d) 622; *Washburn v. Commis-*

sioner, 51 Fed. (2d) 949. It is often difficult to apply the general definitions, with the result that "the decision in each instance must depend upon the particular facts before the court". *Von Baumbach v. Sargent Land Co.*, 242 U.S. 503.

Here we have no isolated transactions. Two of the subdivisions were laid out in 1925 and one in January 1927. The total number of lots in the three subdivisions was 420. Streets and alleys were laid out and, we assume, were improved. The trust deeds disclose elaborate provisions for improvements and places the cost of them on the petitioner and his wife. What these improvements were is not disclosed, except that they included the installation of gas, water and electricity. We are informed that rentals were to be collected by the petitioner and his wife, and that all insurance was to be procured and paid for by them. All this involved the expenditure of money and that money was to be raised and paid by these same individuals. If these provisions were not carried out, the burden rested on the petitioner to so show. This he has failed to do, and he must bear the consequences. A selling agent was employed and he was to have subagents. He was to have charge of advertising. Here we have continuity of effort. All this was done for gain, and it falls squarely within the concept of the term "business". Whose business was it? The plan was conceived by the petitioner who, with his wife, owned all the assets of the business. The fact that to a large extent he confided the management

of this business to his agent, Snyder, and to the trustee, does not make it any the less his business. As we said in Willard Pope, *supra*, “it is axiomatic that one may confide the management of his business to another; but it still remains the business of the owner”.

We are of opinion that the lots were held by the petitioner primarily for sale in the course of his business. Willard Pope, *supra*. Cf. *Sloan v. Commissioner*, 63 Fed. (2d) 666; affirming 24 B.T.A. 61.

Judgment will be entered for the respondent. [35]

United States Board of Tax Appeals

Washington

Docket No. 52,848

R. J. RICHARDS,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

DECISION.

Pursuant to the determination of the Board, as set forth in its report promulgated June 29, 1934, it is

ORDERED and DECIDED: That there are deficiencies of \$486.69 and \$12,552.81 for the years 1927 and 1928, respectively.

[Entered]: July 12, 1934.

[Seal] (s) JOHN J. MARQUETTE,

Member. [36]

In the United States Circuit Court of Appeals
of the Ninth Circuit.

B. T. A. No. 52,848

R. J. RICHARDS,

Petitioner on Review,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent on Review.

STIPULATION DESIGNATING CIRCUIT
COURT OF APPEALS.

IT IS HEREBY STIPULATED IN WRITING by and between the petitioner and respondent herein that the United States Circuit Court of Appeals for the Ninth Circuit shall be and the same is hereby designated as the Circuit Court of Appeals by which the decision of the Board of Tax Appeals herein may be reviewed, as provided in section 1002 of the Revenue Act of 1926 as amended.

Dated, September 28, 1934.

C. E. McDOWELL,

Attorney for Petitioner.

FRANK J. WIDEMAN,

Attorney for Respondent.

[Endorsed]: Filed Sep. 28, 1934. [37]

In the United States Circuit Court of Appeals
of the Ninth Circuit.

B. T. A. No. 52,848

R. J. RICHARDS,

Petitioner on Review,
vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent on Review.

PETITION FOR REVIEW OF DECISION OF
THE BOARD OF TAX APPEALS.

To the Circuit Court of Appeals for the Ninth
Circuit:

Your petitioner R. J. Richards, respectfully
shows:

First. This is a proceeding for review by the United States Circuit Court of Appeals for the Ninth Circuit of a decision of the United States Board of Tax Appeals in which the findings of fact and opinion of the Board of Tax Appeals were promulgated and entered on June 29, 1934, and the decision or "Final Order of Redetermination", entered on July 12, 1934, and which redetermined a deficiency in income tax against petitioner in the sum of \$486.69, for the year 1927, and in the sum of \$12,552.81, as to the year 1928.

Second. That your petitioner was on June 29, 1934, and has been at all times since and now is a resident and inhabitant of the City of Pasadena, County of Los Angeles, State of California, and

that the return of the taxes in [38] respect to which the alleged liability arises was made by your petitioner to the office of the Collector of Internal Revenue at the City of Chicago, County of Cook, State of Illinois. That the Commissioner of Internal Revenue and your petitioner have by a stipulation in writing designated United States Circuit Court of Appeals for the Ninth Circuit as the Court by which such decision of said Board of Tax Appeals may be reviewed.

Third. The nature of the controversy before the Board of Tax Appeals was the redetermination of income taxes under the Revenue Acts of 1926 and 1928, respectively, involving a determination of:

1. Whether or not, during the years 1927 and 1928, lots in tracts numbered 8790, 9436 and 9797, all in Los Angeles County, California, and held in trust, constituted "capital assets" of the petitioner within the meaning of section 208 (a) of the Revenue Act of 1926, and section 101 (c) of the Revenue Act of 1928.

2. Whether or not the income received by petitioner through the sale of said lots in such tracts, during the years 1927 and 1928, may be treated by petitioner as "capital net gain" under said sections and subject to a tax of $12\frac{1}{2}\%$, instead of the statutory normal and surtaxes.

Fourth. The errors committed by the Board of Tax Appeals on which your petitioner relies as the basis for this proceeding are as follows:

1. The Board erred in its conclusion that your petitioner was engaged, during the years involved, in [39] any other business than the business of producing and marketing vegetables and other farm products.

2. The Board erred in its conclusion that the real property constituting the tracts above mentioned, required by the petitioner and his wife in such business of producing and marketing farm products was ever devoted to a purpose not connected with such business.

3. The Board erred in its conclusion that the sale, through said trusts, by your petitioner of said real property was not a partial liquidation of petitioner's said business in so far as said business required the use or ownership of said lots.

4. The Board erred in its conclusion that the issue raised by petitioner was whether petitioner in selling lots in said tracts, during the years 1927 and 1928, through said trusts, was engaged in a business.

5. The Board erred in its conclusion that the lots in said tracts, sold through said trusts, were held by the petitioner primarily for sale in the course of his business.

6. That the Board erred in its conclusion that petitioner is not entitled to the benefits of section 208 of the Revenue Act of 1926, and section 101 of the Revenue Act of 1928, in computing and determining the income taxes of your petitioner during the years 1927 and 1928, with reference to the profits

made by your petitioner from the sale of lots [40] in the tracts above mentioned, through such trusts.

7. That the Board erred in redetermining a deficiency in income taxes against your petitioner in the sum of \$486.69 for the year 1927, and in the sum of \$12,552.81 for the year 1928.

WHEREFORE, your petitioner prays that this court may review the action of the Board of Tax Appeals in this cause, reverse the decision of the Court and direct the entry of a decision by said Board determining that there is no deficiency in income tax, for the years 1927 and 1928, due from your petitioner, and for such other and further relief as to the Court may seem meet and proper in the premises.

C. E. McDOWELL,
Attorney for Petitioner,
810 Title Guarantee Bldg.
Los Angeles, Calif.

[Endorsed]: Filed Sep. 28, 1934. [41]

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

C. E. McDOWELL, being duly sworn, says:

I am the attorney for the petitioner in this proceeding. I prepared the foregoing petition and am familiar with the contents thereof. The allegations of fact contained therein are true to the best of my knowledge, information and belief. This petition is not filed for purposes of delay, and I believe the petitioner is justly entitled to the relief sought.

C. E. McDOWELL.

Subscribed and sworn to before me this 22nd day of September, 1934.

[Notarial Seal] DOROTHY A. LEVOY,
Notary Public in and for the County of Los
Angeles, State of California. [42]

[Title of Court and Cause.]

NOTICE.

TO ROBERT H. JACKSON, ESQ.,
Assistant General Counsel for Internal Revenue,
Washington, D. C.

Please take notice that the above named petitioner has this day filed with the Clerk of the United States Board of Tax Appeals petition for review of the Board's decision rendered herein by the United States Circuit Court of Appeals for the Ninth Circuit. A copy of said petition for review and assignments of error are attached hereto as a part of this notice.

Dated this the 24th day of September, 1934.

(Signed) C. E. McDOWELL,
Attorney for Petitioner.

Service of foregoing notice and receipt of copy of petition for review is acknowledged this the 28th day of September, 1934.

ROBERT H. JACKSON,
Assistant General Counsel for Internal Revenue
Attorney for Respondent.

[Endorsed]: Filed Sep. 28, 1934. [43]

United States Board of Tax Appeals.

Docket No. 52,848

R. J. RICHARDS,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

STATEMENT OF EVIDENCE.

At the hearing of the above entitled proceeding, held before the United States Board of Tax Appeals on the day of September, 1933, the following stipulation between the parties in reference to the testimony of witnesses and documents offered in evidence was received and considered by the Board as all the material evidence pertinent to the issues in controversy, viz.:

STIPULATION.

It is stipulated by and between the above-named parties by their respective counsel, that the affidavit of R. J. Richards, dated October 20, 1930, together with the exhibits attached thereto, and the affidavit of R. J. Richards dated September 15, 1933, both of which are attached hereto, [44] may be received in evidence as the petitioner's case. Respondent agrees that R. J. Richards, if called as a witness, would testify as set forth in these affidavits. Respondent does not stipulate that all of the facts or conclusions stated are correct.

It is further stipulated that the matter may be submitted upon the presentation of this stipulation, together with the attached exhibits.

The affidavit of R. J. Richards dated October 20, 1930, together with the exhibits attached thereto, is in the words and figures as follows:

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES—ss.

ROBERT JAMES RICHARDS,
being first duly sworn, deposes and says:
The Taxpayer.

That his name is Robert James Richards, and that he now resides and has his principal place of business at 1211 West Avenue, Pasadena, California. That prior to taking up his residence at such address, and during the year 1929, the Taxpayer had [45] his residence and office at 5162 Whittier Boulevard, Los Angeles, California. That prior to such time Taxpayer resided and had his office in Chicago, Illinois. That all returns involved in this affidavit are joint returns made by Taxpayer for himself and wife. That the real property hereinafter referred to was acquired by the Taxpayer and his wife, as joint tenants with the right of survivorship, and all transactions with reference to same were carried on in joint names, but because Taxpayer at all times, either with written or oral consent of his wife, carried on any business transactions with reference to same, Taxpayer is, for the purposes of this affidavit, considered the owner of said real property.

Character of Business.

That prior to the year 1920 and at all times since, the Taxpayer has been doing business under the firm name and style of W. M. Watson & Co., and engaged in raising, packing, buying and marketing farm products, and particularly, lettuce. That the transaction of such business required the Taxpayer to travel and be away from his place of residence on numerous occasions.

That during and since the year 1927 Taxpayer [46] has been carrying on a similar business as a co-partner under the name of M. C. Wahl & Co. in Imperial County, California.

That affiant has never engaged in the real estate business or in the business of buying and selling real estate, nor has Taxpayer ever been a dealer in real estate, nor licensed as a broker or salesman under the laws of the State of California, or elsewhere, to buy and/or sell real estate, nor is affiant a member of any real estate board or other organization of persons engaged in the sale of real estate, nor has Taxpayer any place of business from which he carries on or conducts any real estate business or the buying and selling of real estate, nor has affiant ever made purchases or sales or dealt in any way with real estate for third persons.

Real Estate Involved.

That on or about the 15th day of September, 1920, Taxpayer acquired from Ysidora Coutts Fuller, by deed dated June 29, 1920, title to approximately

forty-seven (47) acres of real estate in the County of Los Angeles, as is more particularly described in the deed by which title was conveyed to Taxpayer, a copy of which deed is attached to this affidavit [47] and marked Exhibit "A". That said property referred to in said deed is for convenience hereinafter referred to as "Parcel 1".

That on or about the 30th day of April, 1921, Taxpayer acquired from one Pearl Holmgreen, by deed dated April 21, 1921, approximately four (4) acres immediately adjacent to and lying to the West of said Parcel 1, which real property is more particularly described in the deed by which said Taxpayer acquired said title, a copy of which deed is attached hereto and marked Exhibit "B", and the parcel of land therein described is hereafter described as "Parcel 2".

That thereafter, on or about the 11th day of March, 1922, Taxpayer acquired title from the Winter Investment Company, by deed dated February 8, 1922, to certain real property adjacent to said Parcels 1 and 2, and lying to the South thereof, which said property is more particularly described in said deed a copy of which is hereto attached and marked Exhibit "C". Said real property last mentioned is hereinafter referred to as "Parcel 3".

Use of Land.

That prior to the year 1920 Taxpayer was engaged [48] in the buying, from time to time, of lettuce and other Fall, Winter and Spring vege-

tables, in and about the vicinity of Los Angeles, California, for packing, shipment and sale. That the property above mentioned was located near Los Angeles in what is commonly called the "Montebello District". That such district was considered as one of the most favorable, if not the most favorable district within Los Angeles County for the raising of Fall and Winter vegetables, and particularly lettuce; and that Taxpayer, in purchasing and holding said real property, and all of it, purchased and held the same in order to raise thereon said Fall, Spring and Winter vegetable crops, and particularly lettuce. That said real property was never purchased or held by the Taxpayer primarily or at all for sale in the course of Taxpayer's trade or business, or otherwise.

That after acquiring said Parcel 1, Taxpayer immediately planted the same to lettuce, which was harvested during the succeeding year. That during the years 1921, 22, 23 and 24, and part of 1925, as rapidly as said real property described as Parcels 1, 2 and 3 were acquired, Taxpayer used and held the same, with the exceptions hereinafter noted, for the raising of lettuce exclusively, except as to the [49] year 1924, when a portion of said property was planted to endive or chicory.

That during the year 1921 Taxpayer erected buildings and other structures on not over three and one-half acres of said Parcels 1 and 2 and thereafter, up to the year 1930, used the same as a combined office and place of residence for Taxpayer.

Changing Character of Land.

That after Taxpayer acquired said real property, a great deal of real estate activity developed between such real property and the eastern boundary of the City of Los Angeles, and, beginning with said eastern boundary of the City of Los Angeles, the intervening property began to be subdivided, sold and developed, until such development reached the vicinity of the property owned by Taxpayer. That said property of Taxpayer, by reason of such development, and by reason of the fact that it fronted on the two main highways south from the City of Los Angeles to the southern part of the State of California, and the fact that the main highway from Pasadena, California, to Long Beach, California, was planned to run through a portion of said property said property increased in value very [50] rapidly to such an extent that it was unprofitable to use the same further for the raising of vegetable crops, being worth in excess of \$4000.00 per acre, without improvements, and the upkeep by way of taxes, assessments for local improvements and similar charges made the further holding of said property for farm purposes undesirable. That the amount of County Taxes paid by the Taxpayer on the portions of the real property held by him amounted to \$657.84 for the year 1920, to \$586.15 for the year 1921, to \$1410.53 for the year 1922, to \$3890.32 for the year 1923, to \$4758.49 for the year 1924, and to \$5903.22 for the year 1925. In addition, the Taxpayer was required to pay during the year 1924 the sum of \$4479.95 on account of special assessments

for local improvements charged against such property. That, therefore, during the year 1925, Taxpayer determined upon a subdivision and sale of a part of said Parcel 1.

Method of Subdivision.

That the system followed by the Taxpayer in subdividing and selling said property was not the "typical subdivision project" in that Taxpayer was not acquiring any property especially for sale, but Taxpayer was disposing of his own property, although the making of the actual sales was to be handled by [51] one P. N. Snyder, a real estate broker and agent, whose business was buying, selling and acting as an agent in the sale of real estate. That Taxpayer decided to convey a portion of the property in trust to the Security Trust & Savings Bank, of Los Angeles, California (now the Security-First National Bank of Los Angeles), in order that when Taxpayer was absent from the vicinity of Los Angeles the disposal of said real property could continue uninterrupted, and all bookkeeping and accounting connected with said sales could be handled by the said bank in an economical and systematic fashion. That before conveying said portion of said Parcel 1 in Trust, Taxpayer determined upon a subdivision of said property, the improvements to be installed in said property and upon the prices at which the same should be sold. That after determining upon such program for the improvement and sale of such portion of said Parcel 1, the Taxpayer executed a deed to said bank, and said

bank did execute an agreement agreeing to hold said property in accordance with the terms and provisions thereof and for the benefit of the Taxpayer. Such subdivision was designated as Tract No. 8790 and was made effective as a subdivision by the recording of the plat thereof by said bank after said trust had been created, to-wit: on the 10th day of September, [52] 1925; and Taxpayer did furnish to said bank a list of prices at which each and all of said lots should first be sold. That a copy of said trust agreement is hereto attached and marked Exhibit "D", and that a copy of said subdivision plat is likewise hereto attached and marked Exhibit "E". That said trust was known and designated by said bank as "Trust 2-1780".

That the sale of said lots in said Tract No. 8790 proving satisfactory to said Taxpayer, Taxpayer caused the remaining portion of said Parcel 1, all of Parcel 2, and a portion of Parcel 3 to be subdivided, improved, prices fixed and the property to be conveyed to said bank to be held in trust in the same manner as said Tract No. 8790, and did create a trust for the sale of the same, a copy of which trust is hereto attached and marked Exhibit "F" and is known and designated by said bank as "Trust No. 2-1850". That by reason of an error in the description of the deed by which the Taxpayer conveyed the real property constituting Track No. 8790 to said bank, said bank already held title to a portion of the property included in Trust No. 2-1850, but no agreement had been entered into with refer-

ence to the same. That said bank, after said trust had been created, and in accordance with the subdivision plan [53] previously determined on by Taxpayer, caused to be recorded on or about August 3, 1926, a subdivision map designated as Tract No. 9436, and a copy of said map is hereto attached and marked Exhibit "G".

That the Taxpayer did thereafter determine to subdivide and sell the remaining portion of said Parcel 3, and did thereafter in like manner cause a survey to be made of said property and determine upon a subdivision and improvement thereof, and did fix the sale prices and did create a trust with said bank, and did convey the balance of said Parcel 3 to said bank in such trust. That a copy of the trust agreement between the Taxpayer and said bank is hereto attached and marked Exhibit "H", and said trust was known by said bank as "Trust No. 2-1899". That after said trust was created such bank did, at the direction of the Taxpayer and in accordance with his program for subdivision theretofore determined on by Taxpayer, cause to be recorded in the County of Los Angeles a certain map on the 23rd day of February, 1927, whereby said tract was known as Tract No. 9797. That a copy of said Tract No. 9797 is hereto attached and marked Exhibit "I".

That audits have been made by the Internal [54] Revenue Service of the Treasury Department of each and all of said three trusts, and that said audits have determined the amount of profit from year to

year received by Taxpayer from each and all of said trusts. That Taxpayer has accepted as correct the amount of profit as determined by said audit received by the Taxpayer as the result of each and all of said trusts, but Taxpayer does not concede the correctness of the contention of the Internal Revenue Service as to the amount of tax Taxpayer should pay for the fiscal years 1926-27 and 28 by reason of the profits received by the Taxpayer from the sale of said real property in said three trusts with said bank, as aforesaid, nor the basis on which such taxes should be computed.

Business Carried on by Taxpayer.

That while Taxpayer was raising and selling lettuce on the real property above described as Parcels 1, 2 and 3, during the years 1920 to 1923, Taxpayer was engaged in the business of buying and selling lettuce outright, and during a portion of the time operating a packing house at 1014 Lawrence Street, Los Angeles. That during the year 1923, Taxpayer leased approximately three hundred and eighteen (318) acres of land in the Santa Maria Valley, in Santa Barbara County, California, and raised and sold lettuce thereon, and also leased seventy-two (72) [55] acres adjacent to Taxpayer's real property above described as Parcels 2 and 3, and raised, produced and sold lettuce therefrom. That since the year 1923 Taxpayer has operated continuously one or more packing houses, either at 1014 Lawrence Street, Los Angeles, California, or at Reseda, California, or at Guadalupe, California..

That during the year 1924 Taxpayer increased his leaseholdings in the Santa Maria Valley by one hundred and fifty (150) acres additional, farming all of the same to lettuce.

That during the year 1925, Taxpayer increased his holdings in the Santa Maria Valley to approximately five hundred and sixty (560) acres and continued the growing, selling and marketing of lettuce on Parcels 1, 2 and 3 during the period of time that the same were not being subdivided and/or sold.

That during the year 1926 Taxpayer bought fifty-five (55) acres of land in the San Fernando Valley, Los Angeles County, California, for the purpose of raising lettuce thereon in lieu of the property being subdivided and sold by the Taxpayer. That during said year Taxpayer continued the operation of acreage in the Santa Maria Valley, as theretofore raising and selling lettuce therefrom. That during this year [56] the Taxpayer, jointly with one M. C. Wahl and the M. M. Cobb Company, undertook the raising of lettuce and melons in Imperial Valley, in Imperial County, California. That likewise, from the years 1918 to 1926, Taxpayer was farming real property to the extent of about two hundred and fifty (250) acres and raising lettuce thereon in the vicinity of Duluth, Minnesota.

That during all of such time Taxpayer was operating, up to the year 1929, under the firm name and style of W. M. Watson & Co., with offices at Chicago, Illinois, selling and handling lettuce, and other farm products, and during the year 1926 Taxpayer sold

on consignment from the Land Department of the Duluth and Iron Range Railroad large quantities of lettuce and cauliflower.

That during the year 1927 Taxpayer acquired fifty-five (55) acres of additional land in the San Fernando Valley and continued the raising of lettuce on all lands owned by the Taxpayer in this valley. That Taxpayer continued the operation of about five hundred and sixty-eight (568) acres of land in the Santa Maria Valley for the raising and selling of lettuce therefrom. That the Taxpayer at this time formed the partnership of M. C. Wahl & Co. with M. C. [57] Wahl, and continued operations in Imperial Valley, and Taxpayer financed and handled the crops on commission basis on some two hundred and sixty-one (261) acres in and about Salinas, California. That in addition, Taxpayer, under the name and style of W. M. Watson & Co., continued the handling and selling of consigned goods at Chicago, Illinois, and Taxpayer leased and farmed one hundred and fifty (150) acres in Sequim, in the County of McClellan, in the State of Washington.

That during the year 1928, Taxpayer continued raising and selling farm vegetables in the San Fernando Valley and in the Santa Maria Valley on the same acreage, and continued to handle farm vegetables and products in Chicago under the name of W. M. Watson & Co. The operations of M. C. Wahl & Co. had extended in the Imperial Valley so that

during this year this partnership was raising for market, and marketing, approximately six hundred (600) acres of lettuce and canteloupe.

That during the year 1929 Taxpayer leased and farmed seventy-two (72) acres in the San Fernando Valley, California, in lettuce and planted in alfalfa the one hundred and ten (110) acres owned [58] by Taxpayer. That Taxpayer farmed approximately five hundred and seventy (570) acres in the Santa Maria Valley to carrots, cauliflower and other winter vegetables. That the co-partnership of M. C. Wahl & Co. increased its holdings on which it raised lettuce and canteloupe to approximately twelve hundred (1200) acres, and in addition, Taxpayer leased approximately three hundred and twenty (320) acres in and about Salinas, Monterey County, California, for the purpose of growing and selling lettuce therefrom.

That the operations of Taxpayer for the year 1930 are generally similar to those carried on in 1929, but on a slightly more extensive scale.

That at no time has Taxpayer ever purchased any real estate for subdivision and sale. That at the time Taxpayer determined upon the subdivision and sale of said Parcels 1, 2 and 3, Taxpayer did not intend to go into the real estate business or to purchase any additional property for subdivision and sale. That at all times Taxpayer has been largely engrossed with the business of raising, buying and selling Fall, Winter and Spring vegetables and has

devoted practically all of his time to such business. [59] That in the sale of lots in the three tracts above mentioned Taxpayer took no active part, but the promotion, advertising and sale of said lots was handled by the said P. N. Snyder, who conducted his advertising campaign in such a manner as to create the impression that he was the subdivider and developer of the property above described, to such an extent that the general public believed that the said P. N. Snyder was the owner thereof, and did not know that the Taxpayer had any interest in and to the same. That attached hereto and marked Exhibit "J" is a map showing Parcels 1, 2 and 3 as a whole and before the same were subdivided. That attached hereto and marked Exhibit "K" is another map, showing the manner in which the entire tract was subdivided.

(Signed) ROBERT JAMES RICHARDS.

Subscribed and sworn to before me this 20th day of October, 1930.

[Notarial Seal]

(Signed) MURIEL P. MONTGOMERY,
Notary Public in and for the County
of Los Angeles, State of California.

[60]

I, C. E. McDOWELL, by whom the foregoing Affidavit has been prepared and filed, do hereby certify that I prepared the same and that in part the facts therein contained are of my own knowledge, and as to the remainder of said facts I have

been furnished the same by the taxpayer; and that affiant believes that the facts herein stated are true.

(Signed) C. E. McDOWELL,
922 Security Title Insurance Bldg.,
Los Angeles, California.

Petitioner's Exhibit "A", attached to the foregoing affidavit, is in the words and figures as follows:

GRANT DEED

I, YSIDORA COUTS FULLER, a widow, in consideration of TEN and 00/100 Dollars, to me in hand paid, the receipt of which is hereby acknowledged, do hereby GRANT to ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, husband and wife, as Joint Tenants, with the right of survivorship, all that real property situated in the County of Los Angeles, State of California, described as follows:

All that certain portion of the Rancho Laguna, so-called, in the Rancho San Antonio, County of Los Angeles, State of California, described as follows:

Beginning at an iron pipe, set in the Southerly line of the Whittier Road, at the most Easterly corner of Lot Twenty-one (21), Rancho Laguna, and running thence along the Easterly line of said Lot Twenty-one (21), South twenty-six degrees (26°) eighteen minutes (18') twenty seconds (20'') [61] West, thirteen hundred eight and twenty-two hundredths (1308.22) feet to an iron pipe set at the most Southerly corner of said Lot Twenty-one (21);

thence along the Southerly line of said Lot Twenty-one (21) and Lot Twenty (20), North seventy-five degrees (75°) thirty-seven minutes (37') West thirteen hundred thirty-one and fifty-seven hundredths (1331.57) feet to an iron pipe set at a point six hundred sixty-four and forty-nine hundredths (664.49) feet, North seventy-five degrees (75°) thirty-seven minutes (37') West from the most Westerly corner of said Lot Twenty-one (21); thence North fourteen degrees (14°) twenty-three minutes (23') East twelve hundred eighty (1280) feet to an iron pipe set in the Southerly line of the Whittier Road, at a point six hundred sixty-four and forty-nine hundredths (664.49) feet North seventy-five degrees (75°) thirty-seven minutes (37') West from the most Northerly corner of said Lot Twenty-one (21); thence along the Southerly line of said Whittier Road, South seventy-five degrees (75°) thirty-seven minutes (37') East sixteen hundred one and eighty-two hundredths (1601.82) feet to the point of beginning.

The same comprising the Easterly part of Lot Twenty (20) and all of Lot Twenty-one (21) as delineated on a map entitled Map of the Rancho Laguna and thereon marked with the name of "Ysidora Coutts Fuller", said map being the map filed as Exhibit "A" in connection with the Referees' Report in Action No. B-25296 of the Superior Court of Los Angeles County, entitled Ysidora Coutts Fuller vs. Cave J. Coutts et al.

SUBJECT TO: Taxes for the fiscal year 1920-21
TO HAVE AND TO HOLD to the said grantees,
as Joint Tenants, with the right of survivorship.

WITNESS my hand this 29th day of June, 1920.

YSIDORA COUTS FULLER.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

On this Eleventh day of September, 1920, before
me, [62] W. F. Cook, a Notary Public in and for
said County, personally appeared YSIDORA
COUTS FULLER, a widow, known to me to be the
person whose name is subscribed to the foregoing
instrument and acknowledged that she executed the
same.

WITNESS my hand and Official Seal.

[Notarial Seal]

W. F. COOK,

Notary Public in and for County of Los An-
geles, State of California.

COMPARED

DOCUMENT

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BOOK

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RECORDED AT REQUEST OF LOS ANGE-
LES TITLE INS. CO.

Sep 15 1920 at 8:30 A. M. in Book 7306, Page 332
of Deeds Records, Los Angeles County, Cal.

C. L. LOGAN, County Recorder.

I certify that I have correctly transcribed this
document in above mentioned book.

C. HUNTER,

Copyist, County Recorder's Office,

L. A. Co., Cal.

[63]

Petitioner's Exhibit "B", attached to the foregoing affidavit, is in the words and figures as follows:

GRANT DEED.

I, Pearl Holmgreen, a single woman: in consideration of TEN DOLLARS to me in hand paid, the receipt of which is hereby acknowledged, do hereby GRANT TO Robert James Richards and Arabella Grace Richards, husband and wife, as joint tenants; all that real property situate in the County of Los Angeles, State of California, described as follows:

Beginning at an iron pipe set in the Southerly line of the Whittier Road, at a point 664.49 feet North $75^{\circ} 37'$ West from the most Northerly corner of Lot 21, Rancho Laguna, and running thence South $14^{\circ} 23'$ West 1280 feet to an iron pipe set in the Southerly line of Lot 20, Rancho Laguna, at a point 664.49 feet from the most Westerly corner of said Lot 21; thence along the Southerly line of said Lot 20 North $75^{\circ} 37'$ West 138.06 feet to an iron pipe; thence North $14^{\circ} 23'$ East 1280 feet to an iron pipe set in the Southerly line of the Whittier Road; thence along the Southerly line of Whittier Road, South $75^{\circ} 37'$ East 138.06 feet to the point of beginning,—the same comprising a portion of Lot 20, as delineated on said Map, Exhibit "A", attached to the Final Decree in Partition in Action No. B-25,295 of the Superior Court of Los Angeles County, a certified copy of which Decree is recorded in Book 6387 of Deeds, page 1, Records of Los Angeles County, California, containing 4057 acres.

SUBJECT TO taxes for the fiscal year 1921-1922; TO HAVE AND TO HOLD to the said grantees in joint tenancy. [64]

WITNESS my hand this 21st day of April, 1921.
PEARL HOLMGREEN.

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

On this 21st day of April, 1921, before me F. H. Greene, a Notary Public in and for said County, personally appeared Pearl Holmgreen, a single woman; known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same.

WITNESS my hand and Official Seal.

[Notarial Seal] F. H. GREENE,
Notary Public in and for the County of Los Angeles, State of California.

COMPARED

DOCUMENT VAN VELDIR
BOOK TOWER

RECORDED AT REQUEST OF TITLE INSURANCE & TR. CO., Apr. 30, 1921, at 8:30 A. M. in Book 185, page 307 of Official Records, Los Angeles County, Cal.

C. L. LOGAN, County Recorder. [65]

I certify that I have correctly transcribed this document in above mentioned book.

M. CHICK,
Copyist, County Recorder's Office, L. A. Co., Cal.

Petitioner's Exhibit "C", attached to the foregoing affidavit, is in the words and figures as follows:

GRANT DEED.

(Code) Corporation.

WINTER INVESTMENT COMPANY,

of the City and County of Los Angeles, State of California, a corporation duly organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City of Los Angeles, County of Los Angeles, and State of California FOR AND IN CONSIDERATION OF THE SUM OF Ten and no/100 Dollars, the receipt whereof is hereby acknowledged, does hereby GRANT TO ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, his wife, as joint tenants with right of survivorship.

ALL THAT REAL PROPERTY, described as follows, to-wit: All that certain portion of the Rancho Laguna, so called, in the Rancho San Antonio, County of Los Angeles, State of California, described as follows: Beginning at an iron pipe set in the Northerly line of Lot Twenty-three (23), Rancho Laguna, at a [66] point four hundred ninety-eight and eighty-five hundredths (498.85) feet North seventy-five degrees (75°) thirty-seven minutes (37') West from the most Easterly corner of said Lot Twenty-three (23), and running thence South fourteen degrees (14°) twenty-three minutes (23') West twenty hundred forty-four and sixty-

nine hundredths (2044.69) feet to an iron pipe set in the North Easterly line of Anaheim Telegraph Road at a point eight hundred forty-seven and thirty hundredths (847.30) feet South sixty-one degrees (61°) twenty minutes (20') forty five seconds (45'') East from the most Westerly corner of said Lot Twenty-three (23); thence along the North Easterly line of the Anaheim Telegraph Road North sixty-one degrees (61°) twenty minutes (20') forty-five seconds (45'') West eight hundred forty-seven and thirty hundredths (847.30) feet to an iron pipe at the most Westerly corner of said Lot Twenty-three (23); thence North fourteen degrees (14°) twenty-three minutes (23') East along the Westerly line of said Lot Twenty-three (23) eighteen hundred thirty-five and eighty-three hundredths (1835.83) feet to an iron pipe set in the Northerly corner of said Lot Twenty-three (23); thence along the dividing line between Lots Twenty (20) and Twenty-three (23) South seventy-five degrees (75°) thirty-seven minutes (37') East eight hundred twenty-one and fifteen hundredths (821.15) feet to the point of beginning. The same comprising the Westerly portion of Lot Twenty-three (23), as delineated on a map entitled "Map of the Rancho Laguna" and thereon marked with the name of "John F. Coutts", said map being the map filed as Exhibit "A" in connection with the Referee's Report in Action No. B-25,296 of the Superior Court in Los Angeles County, entitled Ysidora Coutts Fuller v. Cave J. Coutts, et al., and attached to Final Decree of Partition of said Action, a certified copy

of which decree is recorded in Book 6387, page 1 et seq., of Deeds in the office of the County Recorder of said County.

IN WITNESS WHEREOF, the said party of the first part has caused its corporate name and seal to be affixed by its President and Secretary thereunto, duly authorized this 8th day of February, nineteen hundred and twenty-two.

[Corporate Seal] WINTER INVESTMENT
 COMPANY,
 By GEORGE F. WINTER,
 President,
 By FRANK C. WINTER,
 Secretary. [67]

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

On this 10th day of February, A. D., 1922, before me, Margaret F. Brennan, a Notary Public in and for the said County and State, residing therein, duly commissioned and sworn, personally appeared George F. Winter known to me to be the President and Frank C. Winter known to me to be the Secretary of the Winter Investment Company the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] MARGARET F. BRENNAN,
Notary Public in and for said County and State.

COMPARED

DOCUMENT	WICKS
BOOK	McEWEN

RECORDED AT REQUEST OF TITLE INSURANCE & TR. CO., Mar. 11, 1922, at 8:30 A. M. in Book 963, page 92 of Official Records, Los Angeles County, Cal.

C. L. LOGAN, County Recorder.

I certify that I have correctly transcribed this document in above mentioned book.

C. FLETCHER,

Copyist, County Recorder's Office, L. A. Co., Cal.
[68]

Petitioner's Exhibit "D", attached to the foregoing affidavit, is in the words and figures as follows:

DECLARATION OF TRUST.

Trust No. 2-1780.

THIS DECLARATION OF TRUST, made and entered into as of the 15th day of July, 1925, by and between ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, husband and wife, of Los Angeles County, California, parties of the first part, hereinafter sometimes referred to as "Trustors", "Payor" and also as "Beneficiary", SECURITY TRUST & SAVINGS BANK, a cor-

poration of Los Angeles, California, party of the second part, hereinafter sometimes referred to as the "Trustee", and SECURITY TRUST & SAVINGS BANK, as party of the third part, hereinafter sometimes referred to as "Payee".

WITNESSETH:

WHEREAS, the Beneficiaries hereunder are now indebted to the Payee herein in the principal sum of \$28,500.00, which indebtedness is evidenced by a certain promissory note, dated June 11, 1925, made and executed by the said Beneficiaries in favor of said Payee and delivered by said Beneficiaries to said Payee and which promissory note is in words and figures as follows, to-wit:

\$28,500.00 Los Angeles, Cal. June 11, 1925.

On or before December 11th, 1927, for value received, I promise to pay to the SECURITY TRUST & SAVINGS BANK, Guaranty Office, Los Angeles, California, the sum of TWENTY-EIGHT THOUSAND FIVE HUNDRED and 00/100 (\$28,500.00) DOLLARS, with interest thereon from date, until paid, at the rate of six and one-half per cent ($6\frac{1}{2}\%$) per annum, payable quarterly, and should the interest not be so paid it shall bear like interest as the principal. And if any installment of interest herein is not paid when due, or in case of failure to comply with any of the conditions of the Trust Agreement by which this note is secured, the principal and accumulated interest thereon shall become due and collectible at once or at any time thereafter during such delinquency, without notice,

at the option of the holder of this Note. Principal and interest payable in United States gold coin. Privilege is reserved to make partial payments at any time in multiples of ONE THOUSAND and 00/100 (\$1000.00) DOLLARS on the principal of this note. This note is secured by Declaration of Trust No. 2-1780 with the SECURITY TRUST & SAVINGS BANK, a corporation.

ROBERT JAMES RICHARDS,
ARABELLA GRACE RICHARDS. [69]

The Trustee hereunder shall be under no obligation as to the payment of either the principal or the interest due under the terms of said note, except as to the application thereto of the moneys coming into its hands for that purpose as hereinafter provided.

WHEREAS, by deed dated July 15th, 1925, and recorded August 21st, 1925, in the office of the County Recorder of Los Angeles County, Robert James Richards and Arabella Grace Richards, husband and wife, did convey to the Security Trust & Savings Bank, a corporation and do hereby grant to the Security Trust & Savings Bank, with power of sale, all that real property situated in the County of Los Angeles, State of California, described as follows:

“All that portion of the Rancho Laguna, so-called in the Rancho San Antonio, County of Los Angeles, State of California, described as follows:

Beginning at an iron pipe set in the Southerly line of the Whittier Road at the most Easterly

corner of Lot Twenty-one (21), Rancho Laguna, and running thence along the Easterly line of said Lot Twenty-one (21), South Twenty-six degrees (26°) eighteen minutes ($18'$) twenty seconds ($20''$), West thirteen hundred eight and twenty-two hundredths (1308.22) feet to an iron pipe set at the most Southerly corner of said Lot Twenty-one (21); thence along the southerly line of said Lots Twenty-one (21) and Twenty (20), North seventy-five (75°) degrees thirty-seven minutes ($37'$) West eleven hundred thirty-one and fifty-seven hundredths (1131.57) feet to an iron pipe set at a point six hundred sixty-four and forty-nine hundredths (664.49) feet, North seventy-five degrees (75°) thirty-seven minutes ($37'$) West from the most Westerly corner of said Lot Twenty-one; thence North fourteen degrees (14°) twenty-three minutes ($23'$) East twelve hundred eighty (1280) feet to an iron pipe set in the Southerly line of the Whittier Road, at a point six hundred sixty-four and forty-nine hundredths (664.49) feet north seventy-five degrees (75°) thirty-seven ($37'$) minutes West from the most northerly corner of said Lot Twenty-one (21); thence along the Southerly line of said Whittier Road, South seventy-five degrees (75°) thirty-seven minutes ($37'$) East sixteen hundred one and eighty-two hundredths (1601.82) feet to the point of beginning. [70]

The same comprising the Easterly part of Lot Twenty (20), and all of Lot Twenty-one (21) as delineated on a map of the Rancho Laguna and

thereon marked with the name "Ysidora Coutts Fuller", said map being the map filed as Exhibit "A" in connection with the Referees' Report in Action No. B-25,296 of the Superior Court in Los Angeles County, entitled Ysidora Coutts Fuller v. Cave J. Coutts et al."

and as shown by Guarantee No. 607,622, of the Title Guarantee and Trust Company, dated August 21, 1925, at 8:30 A. M., the title to all property was on said date vested in the

"SECURITY TRUST & SAVINGS BANK,
a corporation,

Free of incumbrances

EXCEPT: Taxes for the fiscal year 1925-26."

WHEREAS, no consideration was paid by the Security Trust & Savings Bank for such conveyance, and while such conveyance was in form, and by its terms absolute, yet nevertheless, the same was intended to be and was received by the said Trustee herein in trust, with power of sale, primarily for the purpose of subdividing, renting, leasing, selling and conveying said property in accordance with the terms and conditions hereinafter set forth.

AND, also, said conveyance has been received for the purpose of securing the repayment of the note now owing from the said Beneficiaries to the said Payee herein, as hereinbefore set out, which indebtedness it is hereby declared and admitted, is a first lien upon the Trust property, together with

all interest that may be due or that may accrue on said note, together with any renewals of said note.

AND, also as security for the payment of any additional sums, with interest thereon, that may be hereafter borrowed and received by the said Beneficiaries from said Payee and from Trustee and evidenced by another promissory note or notes executed and delivered by said Beneficiaries to said Payee and/or Trustee, together with any renewal or renewals of said notes and also as security for any sums of money with interest thereon, that may be expended either by the Trustee or Payee hereunder as hereinafter provided.

NOW THEREFORE, THIS DECLARATION
OF TRUST

WITNESSETH: [71]

THAT, the Security Trust & Savings Bank does hereby certify and declare that it holds and shall hold all of the interest in said property conveyed to it through said conveyance in Trust, with power of sale, for the purpose of securing the payment on the above described indebtedness or promissory notes and also for the purpose of renting, leasing, selling and conveying the said property and applying and disposing of the proceeds and avails arising therefrom, in accordance with the terms and conditions herein expressed, to-wit:

ARTICLE FIRST: During the continuance of these trusts the Beneficiary agrees as follows:

(a) To pay before delinquency all taxes and assessments levied and assessed against and upon the property covered hereby and/or against the debt secured hereunder during the life of the Trust.

(b) To pay the principal and interest of any indebtedness and on said notes secured hereby, as and when due.

(c) To pay, when due, all other claims, liens and encumbrances affecting, or purporting to affect, the title to the property covered hereby, and all costs, charges, interest and penalties on account thereof; and also all costs, fees, charges and expenses of the Trustee and of these Trusts.

(d) To appear in and defend or cause to be defended any action or proceeding at law affecting, or purporting to affect, the property covered hereby, these trusts, or the rights of either the Trustee or the Payee hereunder; and the said Beneficiary hereby agrees to pay all costs and expenses of any such action or proceeding, together with attorneys' fees in a reasonable sum to be fixed by the Court whether any such action or proceeding progress to judgment or not, and whether brought by or against the Trustee or the Payee hereunder.

(e) To protect, preserve and defend said property and the title thereto, and to keep said property in good condition, by proper care, inspection, repair, cultivation, irrigation, fertilization or otherwise, and to permit no waste or deterioration thereof, and also to pay for all improvements contracted for or ordered by the said Beneficiary or his agent.

(f) To file with the Trustee a copy of such contract let for any improvements to be placed on each unit of the Trust property as subdivided, and any such improvements placed upon the Trust property will be superintended by the Agent, hereinafter appointed. [72]

(g) In the event the Beneficiaries shall fail to put in and pay for the improvements promised and guaranteed by them or their agents to the purchasers of lots or parcels of property in this Trust, the Trustees shall have the authority, and is hereby given express authority, to contract for and to have installed upon the property all or any of said improvements so promised and guaranteed by the Beneficiaries, and for the purpose of paying for said improvements, is hereby given the further authority and right to impound sufficient funds out of the moneys coming to it under this Trust belonging to the Beneficiaries to pay for the said improvements so contracted, either by the Beneficiaries or by the Trustee on behalf of said Beneficiaries.

The Beneficiaries agree to file with the Trustee specifications covering the improvements so promised by them or their agents and should the Beneficiaries fail so to do, the Trustee is hereby given the authority to contract and pay for improvements, which in its sole discretion, shall appear to said Trustee to meet the promises of the Beneficiaries or their agents as set forth either in the printed matter of the Beneficiaries or their agents or from

evidence presented to the Trustee by purchasers of said Trust property.

(h) The Trustee shall not be required to issue any deed or contract until said Beneficiaries have filed with the Trustee a copy of each such contract as called for in paragraph (f) herein.

(i) The said Beneficiaries agree to file with the Trustee a copy of all of the advertising and printed matter used by them or their agents in connection with the sale of the Trust property, and also a form of the receipt given to the purchasers for any moneys received by them in connection therewith; also a copy of any promises and representations made by themselves or their agents as to improvements to be placed upon the Trust property, and as to any representations to their purchasers as to any re-sales to be made by them, and also which they may permit their sub-agents to make and represent to their purchasers.

(j) To repay, within Thirty (30) days from the date of advancement, and without demand, all sums advanced or expended by the Trustee or the Payee under the terms hereof, with interest thereon from the date of advancement until repaid at the rate of seven per cent (7%) per annum. Should said Beneficiary fail or refuse to make any of the payments, or do any of the acts in the manner and at the times above provided, then the Trustee and/or the Payee, without notice to the Beneficiary, may make or do the same in such manner and to such extent as they, or either of them may elect, and

to that end, said Trustee and/or said Payee may enter and take possession of said property at such times and for such period or periods as they or [73] either of them may deem necessary and/or proper; and said Trustee and/or payee may pay, purchase, contest or compromise any claims, liens or encumbrances which in their judgment or the judgment of either of them appear to affect said property or these trusts, and may advance money or moneys from time to time, for any payment or purpose whatsoever in connection with this Trust; it being distinctly understood however that neither the Trustee, nor the Payee shall be under any obligations to do any of the things mentioned above.

Upon failure of the Beneficiaries to re-pay to the Trustee and/or the Payee any sums advanced by them as herein provided for, together with interest thereon at the time and in the manner as herein specified, such act shall constitute a default hereunder and subject the Beneficiaries to a sale of their rights hereunder as provided in Article Sixteenth herein.

ARTICLE SECOND: The real property covered hereby is to be subdivided and the same shall be improved by the Beneficiary hereunder in such manner as shall be agreed upon by said Trustee and said Beneficiary.

ALL COSTS and expenses, however, incident to such subdivision and improvements shall be borne solely by said Beneficiary, and no part thereof shall be borne by said Trustee or the Payee hereunder.

AND said beneficiary, by his approval of this Declaration, also does promise and agree to protect and save harmless said Trustee and the Payee hereunder from all loss, damage, liability, and expense, by reason of such subdivision and improvements of the trust property and likewise does promise and agree to furnish to the Trustee and the Payee, prior to incurring any obligations in connection with such subdivision and improvements, bond or bonds in substance and in form approved by the Payee, protecting and indemnifying the Trustee and the Payee from all loss, damage, liability and expense, by reason of the subdivision and improvements of the trust property.

ARTICLE THIRD: The Trustee shall rent, lease, sell or convey said property, or any portion thereof and/or the lots in any subdivision thereof, to such person or persons, at such prices and upon such terms and conditions as said Trustee shall deem advisable. PROVIDED that the sales prices of said lots shall not be less than those indicated on the schedule of Minimum Sales Prices hereafter to be agreed upon by said Trustee and the Beneficiary hereunder, copy of which Sales Prices shall be attached hereto and shall be a part hereof. [74]

ARTICLE FOURTH: All proceeds received by said Trustee, arising from each sale made hereunder of any lot or lots in said subdivision or from the rents, leases and sales of said property shall be disbursed and distributed as follows:

1. As to sales made for cash the Trustee shall credit:

(a) To a "Commission Fund" twenty-two and one-half ($22\frac{1}{2}\%$) per cent of the sales price of each lot so sold as commission due the Agent hereunder.

(b) To a "Release Fund" the amount necessary to release the lots so conveyed by the Trustee from the lien in favor of the Payee hereunder.

(c) The balance to the "General Fund".

2. As to sales made for other than all cash the Trustee shall credit each initial cash or down payment received upon issuance of contract and each payment of principal thereafter received.

(a) $\frac{1}{3}$ thereof to the "Commission Fund" until the commission due the Agent for the lots so sold shall have been paid in full, and

(b) $\frac{2}{3}$ to the "General Fund".

3. All interest received on Agreement of Sale shall be credited to the "General Fund".

4. The moneys in the "Commission Fund" shall be disbursed monthly by the Trustee to the Agent hereunder.

5. Out of the money credited to the "General Fund" the Trustee shall pay:

(a) The costs, fees and expenses and advancements (if any) with interest, hereunder of said Trustee.

(b) Either before or after delinquency, all taxes and assessments, both general and special, levied, assessed or imposed on or against said property or payable by the purchaser thereof from the Trustee.

Should the money in the hands of the Trustee available for that purpose be insufficient to pay said taxes or assessments when due, then the Beneficiary, by his ratification of this declaration of trust, covenants and agrees to immediately pay to the Trustee any deficiency in the amount due on said taxes and assessments. [75]

(c) Interest on the indebtedness secured hereby unless the same shall have been otherwise paid.

(d) All bills for labor incurred and materials furnished for the improvement of said property, upon the approval thereof by the Beneficiary or Leeds & Barnard, as his engineers, or any other person designated by him.

(e) Interest on unpaid commissions of the agent as hereinafter provided.

(f) To the principal of the indebtedness evidenced by the note above mentioned or any other note or indebtedness secured hereby.

(g) And the remainder thereof not otherwise required for the purposes of this Trust to the said Robert James Richards and Arabella Grace Richards as joint tenants, Beneficiaries hereunder, upon the death of either, payments to be made to the survivor.

ARTICLE FIFTH: The Trustee at the request of the Beneficiaries hereunder appoints P. N. Snyder, of Los Angeles, California, as their exclusive agent to subdivide and improve, and to solicit and obtain purchasers for such part of said property of which a subdivision map shall have been

filed and designated herein as Unit No. 1, and to generally assume the care and custody thereof.

ALL SALES to be made by said agent shall be for prices not less than those indicated on the "Minimum Sales Price List" to be attached hereto and upon the following minimum terms:

25% of the actual sale price in cash at date of sale and the balance in monthly installments in an amount equal to not less than 2% of the actual sale price, and interest on the unpaid balance at the rate of 7% per annum, payable quarterly.

A discount of 5% may be allowed if the purchase price is paid all in one payment in cash, or a discount of 5% of the balance due on the purchase, if such balance due shall be more than 60% of the purchase price and be paid in one cash payment, and a 5% building discount shall be paid to any cash purchaser of a lot at such time that a building thereon shall have been completed to the extent of the roof having been placed thereon within ninety days from the date of execution of the deed to such lot.

The Beneficiaries and Trustee reserve the right to withdraw from sale, certain lots in said Unit No. 1 not to exceed eighteen in number and of their own selection. [76]

AND each sale shall be subject to such conditions, restrictions and/or reservations and covenants as the said Trustee shall deem advisable.

No sale shall be made with any express or implied warranty or promise as to improvements to

be made except as those specifically agreed upon by the Trustee and as set forth in the copy filed with the Trustee provided for under paragraph (i) of Article First.

This Agency appointment shall be for a period of eight (8) months from the date hereof, but if the aggregate value of the lots sold in said subdivision either in cash or under contracts of sale issued by the Trustee hereunder before the expiration of said term of eight months shall equal one-half of the total aggregate value of all the lots in said subdivision as shown by the Minimum Schedule of Selling Prices to be hereto attached and herein referred to, then Agent may, at his option, by written notice to the Trustee and Beneficiaries prior to the expiration of said term of eight months extend the term of his appointment for a further period of eight months.

In the event of the cancellation or revocation of this appointment the Trustee shall appoint such Agent or Agents as the Beneficiaries may direct, or may rent, sell, lease or convey said property to such person or persons and upon such terms as the Beneficiaries hereunder may direct. All sales of said property, however, shall be subject to the approval of the Trustee.

The said Agent shall assume the general care and custody of the subdivided unit, including this supervision of all the improvements to be placed upon the Trust property, which said improvements shall include the installation of gas, water and electricity.

The said Agent is to be paid a commission of 22½% of the net sale price of each lot, (which shall be the gross price less all discounts allowed and not including any interest thereon), and said commission shall be paid in the manner and at the times as in this trust agreement provided.

In addition thereto, said Agent shall receive interest at the rate of 7% per annum on respective unpaid commissions from the date that respective purchasers have begun to pay interest until said unpaid commissions are fully paid or said sale cancelled.

The agent shall pay out of his commissions for the advertising of the Trust property, selling expenses and his sub-agents commissions. [77]

The sale of each lot shall be considered separately, and the receipts from that sale will be used to pay commissions solely upon said sale.

It is understood and agreed that the Trustee hereunder shall not be liable to the Beneficiaries nor to any other person for any default, defalcation or wrong-doing of the said Agent or its sub-agents.

For any service rendered by said agent under this appointment, it shall be entitled only to such commissions as are herein set forth, and in any event, it shall be entitled only to the payment to it of the proportionate amount of the moneys actually paid in by any purchaser under any agreement of sale, or other evidence of sale and purchase in accordance with the agreed upon manner of distribution, and that no charge or claim shall be

made upon the SECURITY TRUST & SAVINGS BANK, Trustee, for any portion of the unpaid commissions payable from uncollected installments owing by any such purchaser; and this Trustee, at its discretion, and for any cause whatsoever, without liability to said agent for the balance of the unpaid commission, may cancel, annul or compromise any agreement of sale theretofore executed by it upon any portion of the foregoing described lands, the right of said agent to a commission for such sale to cease upon any such cancellation, annulment, rescission or compromise.

The said agent agrees to make a diligent and business-like effort to sell the said property as subdivided, and agrees to advertise the same at such times and in such manner as to create a material assistance in the selling of said property, and to pay for all such advertising.

Agent agrees to hold Trustee and Beneficiaries harmless from all loss, damage or claim arising from injury to persons or property and/or out of misrepresentation or alleged misrepresentation in their acts under the agency hereby created, and hereby agrees to save and hold Trustee and Beneficiaries harmless from all loss, damage or claim arising out of any default, defalcation or wrongdoing of themselves or of their salesmen or sub-agents.

The Agent agrees that nothing herein contained is intended to, nor shall it be construed as conferring any authority on Agent to execute deeds or

contracts to sell said lots, or to enter into contracts in the name of Trustee except temporary reservation contracts, or to incur liabilities on behalf of Trustee and Beneficiaries; and Agent expressly agrees that, except as to such temporary reservation contracts, they will enter into all contracts and incur all liabilities in their own names and [78] behalf only, and not in the name or on the behalf of Trustee and Beneficiaries.

P. N. Snyder, hereinbefore appointed agent, by his acceptance of this Declaration of Trust, accepts the agency hereby created, subject to all the terms and conditions as herein set forth.

ARTICLE SIXTH: The purchaser of each lot, or lots, sold hereunder from January 1st to June 30th of any year shall pay all taxes for the year in which the property was sold and thereafter. The purchaser of each lot, or lots, sold from July 1st to December 31st of any year, shall pay the second half of taxes for the year in which the property was sold and thereafter. All taxes for the fiscal year 1925-26 shall be pro-rated by the said Beneficiary.

ARTICLE SEVENTH: The Trustee shall execute all Agreements of Sale, Deeds and other instruments in writing, whatsoever requisite and necessary for the renting, leasing, transferring or conveying of said property or any portion thereof. Such Agreements of Sale and Deeds shall be subject to conditions, restrictions, reservations and rights of way of record, if any, and shall also con-

tain conditions and restrictions as shall be directed by the said Beneficiary and agreed to by the Trustee, and shall be subject to any and all ordinances of any city in which the property is located, or by any governmental or public agency creating or dealing with zones and prescribing the classes of buildings, structures and improvements in said zones and the use thereof.

The Trustee shall be under no liability or responsibility to the Beneficiary hereunder, nor to any other person, for the validity of any condition or restriction inserted in any Agreement of Sale or Deed, nor shall the Trustee be called upon to defend any suit, proceeding or action at law or in equity, to enforce the performance of, or enjoin the breach of, any such condition, restriction or ordinance, although the said Trustee may defend or prosecute such action at its election, and upon the request of the said Beneficiary, or any other person, and upon being indemnified for its costs and expenses in any such suit or suits.

ARTICLE EIGHTH: The said Trustee shall not be required to attend to or procure any insurance upon any building upon said property, or to collect or disburse any rents thereof, so long as this Trust shall continue, but all such services shall be performed and the expenses thereof borne by the said Beneficiary or his representatives.

ARTICLE NINTH: During the continuance of these Trusts the Trustee is authorized to pay: taxes levied and assessed against said property; any spe-

cial assessment levied against said property or any portion thereof, of which the Trustee shall receive due notice; any other liens or charges against said property necessary for the preservation or maintenance thereof, but all of the above mentioned payments shall be at the expense of the Beneficiary hereunder, and the said Beneficiary, by his ratification of this Declaration of Trust, covenants and agrees to pay to the said Trustee sufficient moneys with which to pay the same before the same becomes delinquent.

ARTICLE TENTH: The Trustee reserves unto itself the right, and shall have the power, solely within its discretion for the benefit of the Beneficiary hereunder, to replace, renew or extend any debt or incumbrance upon the Trust property, or any part thereof, when the same becomes due or at any time such replacement, renewal or extension may be in the judgment of said Trustee for the best interests of this Trust or necessary to protect the Trust property; and upon such terms and upon such conditions and by such means of security as said Trustee may deem proper, including the right and power to convey the fee title to said property, or any part thereof, to such person or corporation as it shall select for the purpose of executing and delivering the necessary note, mortgage, deed of trust, or other hypothecation, to evidence and secure such debt or debts and of reconveying said property to said Trustee subject thereto, and when such reconveyance shall have been so made, said Trustee shall thereupon be restored to its full estate hereunder.

It being distinctly understood that any such conveyance by said Trustee, for the purposes hereinabove stated, shall in no wise be construed as a suspension or termination of this Trust or as in any way impairing, changing or limiting the powers of the said Trustee, as herein expressed and intended. But the powers conferred by this Article shall not be exercised by the Trustee unless the Mortgagees and the Payee hereunder shall have been paid in full, except with their written consent.

ARTICLE ELEVENTH: The Trustee shall not be obligated to convey to the said Beneficiary, nor to any other person, any land covered by any existing Agreement of Sale, so long as such Agreement is in force and effect, but shall be and is hereby authorized to retain the title to all of said land covered by such Agreement until said Agreement has been paid in full by the holder thereof, and the land shall then be deeded to the holder of said Agreement in accordance with the terms thereof; nor shall the Trustee be obligated to convey, upon the order of the Beneficiary hereunder, or upon the order of any party to this Trust, any property upon which an Agreement to Convey has been cancelled, until time as a cancellation thereof has been effected in form satisfactory to the said Trustee.

[80]

It is understood and agreed however, that the Trustee, upon being indemnified by the Beneficiary for its costs, fees and expenses, shall upon request of the said Beneficiary, take such legal action as may be necessary for the enforcement of the terms

of any of the Agreements then outstanding and in default, or take such legal action as may be necessary to obtain a Court Decree quieting its title or obtain such other acquittance as is satisfactory to the Trustee, to any portion of the Trust property upon which an Agreement to Convey has been, or is to be, forfeited, provided that the purchaser's unrecorded copy of such Agreement has not been surrendered to the Trustee for cancellation, but all at the cost and expense of the said Beneficiary.

ARTICLE TWELFTH: The Trustee does not, either as Trustee or in any other capacity, assume or guarantee the payment of the indebtedness secured hereby, or any part thereof, nor does it guarantee the performance, in whole or in part, of any Agreement of Sale made hereunder by the purchaser thereunder.

It is further understood that the provision relating to the payments to be made by the Trustee shall not be construed so as to impose any obligation upon the said Trustee, unless there shall be, at the time such payment becomes due, sufficient moneys in the hands of the Trustee belonging to this Trust to enable it to make such payments.

ARTICLE THIRTEENTH: The costs, fees and expenses of the Trustee hereunder are hereby fixed as follows:

First: For accepting this Trust and executing this Declaration, a sum equal to one-tenth of one per cent ($1/10$ of 1%) of the gross selling price of said property.

Second: Two per cent (2%) of the gross sales price of any lot or lots where the sales price shall all be paid on one cash payment.

Third: Three per cent (3%) of the gross sales price which includes interest thereon of any lot or lots where the sales price shall be paid in deferred payments, and three per cent (3%) on all other sums collected under the provisions of this Trust Agreement.

PROVIDED, however, that the aggregate [81] compensation under items two and three shall not be less than TWO HUNDRED FIFTY (\$250.00) DOLLARS per year.

Fourth: Two and 50/100 (\$2.50) Dollars per lot for each Contract in duplicate, and Two and 50/100 (\$2.50) Dollars per lot for each Deed executed by said Trustee.

Fifth: The necessary cost of Revenue Stamps, guarantees of title, recording charges, escrow charges, the cost of printing forms of Agreements of Sale and Deeds, and any other charge or expenses necessary to consummate the sales of the property.

Sixth: A reasonable compensation for any service rendered by said Trustee in the execution of this Trust for which the costs, fees and expenses are not herein provided, and including a reasonable compensation (in addition to the counsel fees and other expenses) for any service rendered under this Trust by the said Trustee in connection with any action or proceeding at law (including any arising from the death of any Beneficiary hereunder), or

in paying or attending to the payment of any taxes or assessments in connection with any income tax, inheritance tax or estate tax matter affecting the Trustee, any Beneficiary hereunder, or the Trust property or any portion thereof.

Mortgages or trust deeds given by purchasers to the Beneficiary, or assigned to the Beneficiary, to cover principal payments, are, for purposes of determining fees, to be treated as cash payments, but if held by the Trustee and under the same terms as Agreements to Convey, the regular collection fee as herein stated will be charged.

ARTICLE FOURTEENTH: The said Beneficiary, by his ratification of this Declaration of Trust, covenants and agrees to hold and save harmless the Trustee hereunder from any and all liability, claims, demands, injuries or damages which it may suffer or sustain by reason of the acceptance of this Trust, and its position as Trustee hereunder, and to protect said Trustee from any loss, damage, cost or expense by reason of the improvements of any character whatsoever made on said property, and [82] against all expenses incurred by any Agent of the Beneficiary or any Agent appointed by the Trustee at the request of the Beneficiary in the handling or sale of said property, and, upon demand of the Trustee, to furnish said Trustee with such further guaranty or indemnity as said Trustee shall deem necessary to protect said Trustee and said lands against any loss, damage, cost or expense by reason of such sale or improvements.

ARTICLE FIFTEENTH: If the whole or any portion of the interest of the Beneficiary hereunder, or any Beneficiary, if there be more than one Beneficiary, or the Mortgagees or the Payee hereunder, or the proceeds or avails of any such interest, shall, at any time during the terms or upon the expiration of this Trust, become liable for payment of any estate, inheritance income or other tax, charge or assessment which said Trustee shall be required to pay, then unless such taxes shall have been fully paid when due, by someone else, said Trustee is hereby authorized without previous notice to or demand upon any person, to pay such taxes out of the whole or any portion of the interest so affected, and for that purpose of hereby generally and specifically authorized and empowered, without previous notice or demand to or from any person whomsoever, to sell at public or private sale, and convey sufficient portion of such interest up to the whole thereof as shall fully pay all such taxes, all costs and expenses of such sale, all the sums, together with interest thereon at Seven per cent (7%) per annum, payable quarterly, then due the Trustee under this Trust or which it may have advanced or expended in the care, management and protection of the Trust Estate and in the payment of any said estate, inheritance, income or other taxes therein, and which said Trustee may be required to pay. Until such sums have been fully paid, they shall constitute a first lien on all the property subject to this tax, and in favor of said Trustee.

ARTICLE SIXTEENTH: If default be made in the payment of principal or interest of said debt secured hereby, or in the payment of principal or interest of any other sum or amount properly payable under this Trust, by the sole Beneficiary hereunder, or by the Beneficiaries if there then be more than one, or upon breach by said Beneficiary or Beneficiaries of any covenant, condition or stipulation hereof, then the party or parties (i. e. Payee and/or Trustee, as the case may be) as to whom such default or breach shall have been made may declare ALL SUMS secured hereby immediately due and payable and shall execute and deliver to the Trustee hereunder a written declaration of default and demand for sale, and after ninety (90) days shall have elapsed following the receipt thereof by said Trustee, but without the necessity of demand on any Beneficiary hereunder or any other person, said Trustee shall sell the entire beneficial interest under this Trust (i. e. the entire interest under this Trust of the sole Beneficiary, or the entire interest under this Trust of all Beneficiaries hereunder if there then be more than one), or such portion of said [83] entire beneficial interest (i. e. a portion of the interest under this Trust of the sole Beneficiary, or a proportionate amount of each interest under this Trust of each Beneficiary if there then be more than one Beneficiary hereunder) as may be necessary to pay said sums together with the expenses and Trustee's fees hereinafter mentioned.

SAID SALE shall be made in the following manner, namely:

Said Trustee first shall publish notice of the time and place of such sale with a description of the beneficial interest to be sold at least once a week for three (3) successive weeks, in a newspaper published in said City of Los Angeles, and from time to time may postpone such sale by publication in the same newspaper, or, at its option, by public announcement thereof at the time and place of sale so advertised; and, at the time and place of sale fixed as hereinbefore provided, said trustee may sell the beneficial interest so advertised or such portion as may be necessary to pay said sums, together with the expenses and Trustee's fees hereinafter mentioned, at public auction to the highest bidder for cash in United States gold coin and the Trustee, any Payee, or any person on behalf of either, or any other person, may bid and purchase at such sale, and upon such sale and after due payment made to it, said Trustee shall make and deliver to the purchaser at such sale an assignment of beneficial interest so sold; but without covenant or warranty, express or implied, regarding the ownership thereof or the taxes or other encumbrances thereon; whereupon such purchaser shall have all of the rights and privileges of the original Beneficiary or original Beneficiaries hereunder which property pass with said Assignment, subject, however, to all of the terms, conditions, and obligations of this Trust, but freed from lien of the debt mentioned as being secured by said Beneficial interest, and freed from the liens of all subordinate and inferior debts against the same.

Distribution of the proceeds received by said Trustee arising from each such sale shall be made by it as follows:

1st: To the payment of all expenses of such sale, including posting (if any) and advertising, and the costs, fees, charges and expenses of this Trust; also Trustee's fee for making such sale hereby fixed at Ten Hundred Dollars (\$1000.00) all in said gold coin; which said amounts shall all become due and payable upon receipt by said Trustee of written declaration of default and demand for said afore-said.

2nd: To the payment of all sums which may have been advanced by said Trustee or any Payee hereunder—and not repaid—for the preservation, maintenance or protection of the property covered hereby, the title thereto, or any beneficial interest hereunder; together with accrued interest thereon.
[84]

3rd: To the payment of the amount then remaining unpaid of the hereinbefore described debt of \$28,500.00 secured hereunder, including accrued interest.

4th: To the payment of the amount due and unpaid on any additional sums borrowed or advanced under and in accordance with the provisions of this Declaration of Trust, and secured thereby, together with accrued interest thereon.

5th: AND the balance (if any) to the person or persons legally entitled thereto.

AND, in the event of such sale of the beneficial interest hereunder or any portion or portions thereof, and the execution of an Assignment or Assignments thereof, under this Trust, then the recitals in each such Assignment of default and of publication of notice of sale and of demand that such sale be made, postponement of sale, terms of sale, sale, purchaser, payment of purchase money, and of any other fact or facts affecting the regularity or validity of such sale, shall be conclusive proof of such failure to pay, of due publication of such notice, and that the sale was made after due and proper demand, and of all facts recited therein; and any such Assignment containing such recitals shall be effectual and conclusive against all beneficiaries and all other persons as to such failure to pay, publication and demand, and as to all facts recited therein, and the receipt for the purchase money contained in each Assignment executed to a purchaser or purchasers as aforesaid shall be a sufficient discharge to such purchaser or purchasers from all obligation to see to the proper application of the purchase money.

AND THE BENEFICIARY HEREUNDER, by his approval of this Declaration and for himself and his heirs and assigns, does transfer, assign and convey to said Trustee title to the entire beneficial interest under this Trust sufficient to enable said Trustee to transfer, assign and convey said interest, or part or parts thereof, upon each sale thereof as hereinbefore in this section provided.

In the event of a default and conveyance and sale of the Trust property, as in this Article provided, or in the event of the merger of the interests of the Beneficiary, and the payee hereunder by assignment or otherwise, or when all the terms of this Trust shall have been complied with by the Beneficiary and the Payee hereunder, it is understood and agreed between all parties hereto that the title to any property covered by any then existing agreement of sale executed by the Trustee shall remain in the name of the Trustee for the benefit of the real owner thereof, and the proceeds received therefrom shall be applied, as in Article Fourth provided, to the payment of any unpaid commissions due the Agent, and to the costs, fees and expenses of [85] the Trustee; and the Balance of the proceeds to be paid to the then real owner of said property.

In the event of the full payment of any Agreement by the purchaser therein named, or his successors in interest, the Trustee shall thereupon convey the property covered by said agreement to such purchaser, in accordance with the terms of said agreement.

ARTICLE SEVENTEENTH: If the funds in the hands of said Trustee belonging to this Trust are not sufficient to pay, when due, the principal or interest of any mortgage or deed of trust or other debt, pledge or incumbrance against the property covered hereby, or any taxes, insurance, assessments, liens, costs, charges or other expenses necessary or proper for the preservation, maintenance and care of said Trust Estate or the title thereto, or the costs,

charges and expenses of this Trust, then and in any such event, the Trustee is authorized to levy assessments on the Beneficiary, from time to time, to meet such charges and expenses, and each Beneficiary, his heirs, successors and assigns, does, by his approval and ratification of the terms of this Declaration of Trust, well and truly bind himself to pay to the Trustee his proper proportion thereof on or before the day upon which the same shall become due and payable.

AND in the event that any one or more of said Beneficiaries shall fail to so pay his proportionate share of any such sum or assessment on or before the day it shall become due and payable, said Trustee, or any one of the other Beneficiaries of the Trust may pay such share to the end that said Trust Estate, the trusts herein contained, and all parties interested herein, may be protected; and any such Beneficiary shall be entitled to receive seven per cent (7%) interest upon any sums so advanced, from the date of advancement until repaid.

IN THE EVENT of such default and exercise of the right above granted, the Trustee, shall, upon the written demand of any party making such payment, and after thirty (30) days demand on such defaulting Beneficiary for the repayment of such amount advanced (if such amount advanced is not repaid within thirty (30) days after such demand), sell the interest of such defaulting Beneficiary hereunder, and all his interest in and to the proceeds and avails arising or growing out of this Declaration of Trust, or so much thereof as it shall be necessary to sell

in order to pay to the party making such payment the amount so paid by him, with interest thereon at the rate of seven per cent (7%) per annum, the expenses of such sale and the compensation of the Trustee in the sum of one hundred dollars (\$100.00).

Such sale shall be made subject to all of the terms and conditions of this Trust at either public or private sale, at the option of the Trustee. [86]

If said sale shall be made at private sale, the interest of such defaulting Beneficiary shall be sold for a price of not less than the amount such defaulting Beneficiary shall have paid on account of said purchase price and the costs of such sale. Should the Trustee elect to sell such interest at public auction, then said sale shall be made in the following manner, to-wit:

Said Trustee shall first public notice of the time and place of such sale, with a brief description of the interest of such defaulting Beneficiary hereunder to be sold, at least once a week for four successive weeks in some newspaper published in the County of Los Angeles, State of California, and may, from time to time, postpone such sale by publication in the same newspaper, or, at its option, by public announcement thereof at the time and place of sale so advertised; and on the date of sale or on the date to which such sale may be postponed, said Trustee shall sell the Beneficial Interest hereunder so advertised, or any portion thereof, at public auction, at such place in the City of Los Angeles, State of California, as it may have designated, to

the highest bidder, for cash, in LAWFUL MONEY of the United States, and any of the Beneficiaries hereunder, or any other person, may bid and purchase at such sale, and thereafter such purchaser shall have all the rights and privileges of an original Beneficiary hereunder, subject, however, to all of the terms and conditions of this Trust.

AND said Beneficiaries do hereby, by their approval of this Trust, jointly and severally transfer and convey to said Trustee title to said Beneficial interest or interests, sufficient to enable said Trustee to convey and assign said interest or interests upon a sale thereof, in event of a default as above provided.

Upon a sale of said interest at either public or private sale said Trustee shall execute and deliver to the purchaser or purchasers, his or their heirs or assigns, an assignment of the interest so sold, and out of the proceeds thereof, shall pay:

1st: The expenses of such sale and the compensation of the Trustee in the sum of One Hundred Dollars (\$100.00), in LAWFUL MONEY of the United States, which amount shall become due and payable upon demand made as hereinbefore provided for the sale of the interest of such defaulting Beneficiary.

2nd: To the person having paid the same, the amount paid for the account of said defaulting Beneficiary as above provided, together with interest thereon at the rate of seven per cent (7%) per annum, from the date of such default to the date of

receipt by the Trustee of proceeds from such sale; and [87]

LASTLY: The Balance or surplus of such proceeds, if any, to the order of such defaulting Beneficiary, his heirs or assigns.

IN THE EVENT of a sale of the interest of such defaulting Beneficiary, or any part thereof, at either public or private sale, and the execution of an assignment thereof under these trusts, then the recitals therein of default, and of such publication of notice of sale, and of a demand that such sale should be made, postponement of sale, terms of sale, sale, purchaser, payment of purchase money and of any other fact or facts affecting the regularity or validity of such sale, shall be conclusive proof of such default, of the due publication of such notice, that such sale was made on due and proper demand and of all the facts recited in said assignment; and such assignment, with such recitals therein, shall be effectual and conclusive against the said defaulting Beneficiary, his heirs or assigns and all other persons, as to such default, publication and demand, and as to all other facts recited therein, and the receipt for the purchase money contained in any assignment executed to a purchaser as aforesaid shall be sufficient to discharge such purchaser from all obligation to see to the proper application of the purchase money.

ARTICLE EIGHTEENTH: The interest under this Trust of each Beneficiary and the Agent hereunder is personal property and that no such Beneficiary or Agent has any right, title or interest in or

to the property covered hereby, and has no right or power to in any manner apply for or secure the dissolution or termination of this Trust, or the partition or the division of any of the Trust property; the sole right and power of each Beneficiary hereunder being to enforce the performance of the terms of this Trust, as expressly set forth in this Declaration.

PROVIDED, HOWEVER, that after the payment in full of the indebtedness secured hereby, if any, and the termination of the Agency Appointment, if any, made in accordance with the terms of this Trust, all of the Beneficiaries of this Trust, by a jointly written direction of the Trustee, may close and terminate this Trust. In no event, however, shall the Trustee be required to convey any property then covered by any existing Agreement to Convey executed by the trustee, but the Trustee is expressly empowered and directed to retain the title to the property covered by any such existing Agreement to Convey, for the benefit of the real owner thereof. The proceeds and avails received from any such Agreement to Convey shall be applied by the Trustee to the payment of any unpaid commission due, and to the costs, fees and expenses of the Trustee, and the balance of the proceeds shall be paid by the Trustee to the then real owner of such Agreement to Convey. [88]

ARTICLE NINETEENTH: The said Trustee makes no representation of fact as to the title to the property held under this Trust, but has the right to assume that the Guarantee of Title issued by any

Title Company doing business in the County in which the Trust property, or some part thereof, is situated, correctly shows the record title to said property and the incumbrances thereon.

ARTICLE TWENTIETH: The Beneficiaries may sell, transfer and assign all or any part of their beneficial interest herein provided that no sale or transfer of any beneficial interest hereunder shall be valid or binding upon said Trustee until an executed original of the assignment or other instrument evidencing such sale or transfer has been filed with said Trustee with a transfer fee of \$10.00 for each transfer, and shall by endorsement thereon be accepted by the Assignee and Trustee; excepting only where such interest may pass or be transferred by Decree or Order of Court, and then only upon satisfactory proof of the regularity and validity of the proceedings in such matter being presented to said Trustee.

ARTICLE TWENTY FIRST: This Trust shall not cease or terminate in any event until all the costs, fees and expenses of said Trustee hereunder shall have been fully paid, nor until each party to this Trust has delivered to the Trustee for cancellation, its, his or her certified copy of this Declaration of Trust, together with the Certificate of Beneficial Interest attached thereto, if any.

ARTICLE TWENTY SECOND: The term Beneficiary used herein shall include Beneficiaries; that the masculine gender shall include the feminine and neuter genders; that the singular number shall

include the plural number, all wherever and as to the context of the language herein contained shall indicate.

ARTICLE TWENTY THIRD: Said Trustors have delivered to the Trustee as additional property under this Trust, certain street improvement bonds issued by the County of Los Angeles, under the County Improvement Act of 1921, being County Improvement Number 52, Series One, as follows:

Bond No.	Amount
578	\$ 246.06
579	123.03
580	1184.29
581	592.14
582	1637.85
583	696.58

[89]

The said Trustee certifies that it has received said bonds to be held by it in trust, subject to all the conditions and terms of this Declaration of Trust, and said Trustee is authorized and empowered to, at any time, surrender said bonds for cancellation if and when in its sole judgment, it shall deem it necessary to do so, and especially when upon sale of any part of the subdivided property against which these bonds appear as a lien, it shall be required to sell or convey the property covered by such bond, free and clear of any indebtedness.

ARTICLE TWENTY FOURTH: The conditions and provisions hereof shall inure to and bind the beneficiaries as joint tenants and their assigns and also the heirs, legatees, devisees, administrators, ex-

ecutors, successors and assigns of the surviving joint tenant, and shall also inure to and bind all other parties hereto their heirs, legatees, devisees, administrators, executors, successors and assigns.

IN WITNESS WHEREOF, the said SECURITY TRUST & SAVINGS BANK has caused these presents to be executed in its corporate name by its Vice President and Assistant Secretary, thereunto duly authorized, and its corporate seal to be hereto attached as of the 15th day of July, 1925.

SECURITY TRUST & SAVINGS BANK

By J. VEENHUYZEN,

Vice President.

By E. B. PENTZ,

Ass't Secretary.

We, the undersigned, do hereby certify and declare that we are the Beneficiaries and Payee named in the above and foregoing Declaration of Trust and that the above and foregoing Declaration of Trust Number 2-1780, of the SECURITY TRUST & SAVINGS BANK, correctly and accurately sets forth and declares the trusts under and upon which said property is held by the said Trustee, and we do also hereby agree to and do approve, ratify and confirm the same in all particulars.

And the undersigned Beneficiaries and Payee, for themselves and their heirs and assigns do transfer, assign and convey [90] to said Trustee title to the Beneficial interests under said Trust for conveyance of said interest, or part or parts thereof, in event of a sale as provided in Article Sixteenth and/or Article Seventeenth of said Declaration of Trust.

DATED at Los Angeles, California, this 15th day of July, 1925.

ROBERT JAMES RICHARDS
ARABELLA GRACE RICHARDS
SECURITY TRUST & SAVINGS BANK,

Payee,

By: J. VEENHUYZEN,
Vice President.

By: E. B. PENTZ,
Assistant Secretary.

I, the undersigned, the herein appointed agent, accept such appointment subject to all the terms and conditions of this Declaration of Trust.

P. N. SNYDER,
Agent.

STATE OF ILLINOIS,
COUNTY OF COOK.—ss.

On this 15th day of July, 1925, before me, RUSSELL S. CLARK, a Notary Public in and for said County, personally appeared ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, husband and wife, of Los Angeles County, California, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they executed the same; and I certify that under the laws of Illinois I am duly authorized to take acknowledgments of deeds.

WITNESS my hand and official seal.

RUSSELL S. CLARK,

Notary Public in and for the County of Cook,
State of Illinois.

RICHARD'S UNIT #1.

Tract #8790.

Lot	Price	Lot	Price
1	\$40,000.00	31	\$3,000.00
2	5,000.00	32	3,000.00
3	3,750.00	33	3,000.00
4	4,000.00	34	3,000.00
5	12,500.00	35	3,000.00
6	3,125.00	36	3,000.00
7	3,125.00	37	3,000.00
8	3,125.00	38	3,000.00
9	3,125.00	39	3,000.00
10	3,125.00	40	3,000.00
11	3,125.00	41	3,000.00
12	3,125.00	42	3,000.00
13	3,125.00	43	3,000.00
14	3,125.00	44	3,000.00
15	3,125.00	45	1,450.00
16	3,125.00	46	1,450.00
17	3,125.00	47	1,450.00
18	3,125.00	48	1,450.00
19	3,125.00	49	1,450.00
20	3,125.00	50	1,450.00
21	3,125.00	51	1,450.00
22	3,125.00	52	1,450.00
23	3,125.00	53	2,250.00
24	3,125.00	54	2,250.00
25	3,125.00	55	1,475.00
26	3,125.00	56	1,475.00
27	12,250.00	57	1,475.00
28	12,250.00	58	1,475.00
29	3,000.00	59	1,475.00
30	3,000.00	60	1,475.00

Lot	Price	Lot	Price
61	1,475.00	91	1,450.00
62	1,475.00	92	1,450.00
63	1,475.00	93	1,425.00
64	1,475.00	94	1,425.00
65	1,500.00	95	1,425.00
66	10,000.00	96	1,425.00
67	3,500.00	97	1,425.00
68	3,125.00	98	1,425.00
69	3,125.00	99	1,425.00
70	3,500.00	100	1,425.00
71	10,000.00	101	2,175.00
72	1,500.00	102	2,175.00
73	1,475.00	103	1,450.00
74	1,475.00	104	1,450.00
75	1,475.00	105	1,450.00
76	1,475.00	106	1,450.00
77	1,475.00	107	1,450.00
78	1,475.00	108	1,450.00
79	1,475.00	109	1,450.00
80	1,475.00	110	1,450.00
81	1,475.00	111	1,450.00
82	1,475.00	112	1,450.00
83	2,250.00	113	1,475.00
84	2,250.00	114	10,000.00
85	1,450.00	115	3,125.00
86	1,450.00	116	3,125.00
87	1,450.00	117	3,125.00
88	1,450.00	118	3,125.00
89	1,450.00	119	3,125.00
90	1,450.00	120	3,125.00

Lot	Price	Lot	Price
121	3,125.00	150	1,550.00
122	3,125.00	151	1,425.00
123	3,125.00	152	1,425.00
124	3,125.00	153	1,425.00
125	3,125.00	154	2,650.00
126	3,125.00	155	1,800.00
127	3,125.00	156	1,425.00
128	3,125.00	157	1,425.00
129	3,125.00	158	1,425.00
	[92]	159	1,275.00
130	7,500.00	160	4,250.00
131	3,750.00	161	3,750.00
132	4,250.00	162	3,750.00
133	1,250.00	163	4,250.00
134	1,450.00	164	1,550.00
135	1,450.00	165	1,400.00
136	1,450.00	166	1,400.00
137	1,450.00	167	2,400.00
138	1,450.00	168	1,800.00
139	1,900.00	169	1,400.00
140	1,900.00	170	1,400.00
141	1,450.00	171	1,250.00
142	1,450.00	172	4,250.00
143	1,450.00	173	3,750.00
144	1,450.00	174	3,750.00
145	1,500.00	175	4,250.00
146	4,250.00	176	1,500.00
147	3,750.00	177	1,400.00
148	3,750.00	178	2,250.00
149	4,250.00	179	2,350.00

Lot	Price	Lot	Price
180	1,650.00	185	3,750.00
181	1,600.00	186	4,250.00
182	1,600.00		<hr/>
183	3,750.00		\$529,300.00
184	3,750.00		

SCHEDULE OF MINIMUM SALES PRICES

Approved:

ROBERT JAMES RICHARDS

ARABELLA GRACE RICHARDS

A photostatic copy of Petitioner's Exhibit "E" is as follows: [93]

Petitioner's Exhibit "F", attached to the foregoing affidavit, is in the words and figures as follows:

DECLARATION OF TRUST.

Trust No. 2-1850.

KNOW ALL MEN BY THESE PRESENTS:

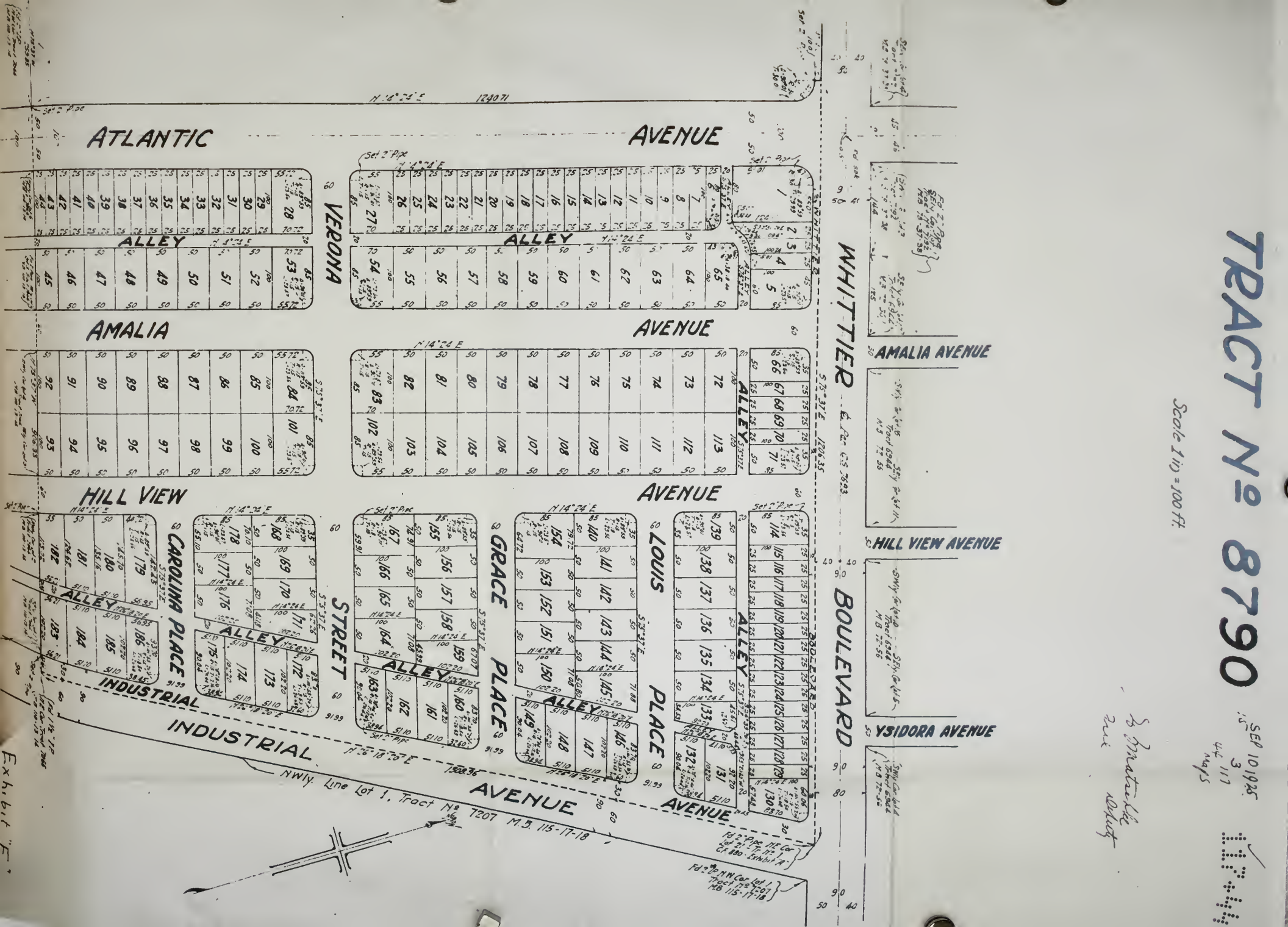
That SECURITY TRUST & SAVINGS BANK, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, California, hereinafter sometimes called the "TRUSTEE", has received from ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, his wife, of Los Angeles, California, hereinafter sometimes called the "TRUSTOR" and/or "BENEFICIARIES", a deeds dated July 15th, 1925 and July 29th, 1926, as filed for record August August 21st, 1925 and July 31, 1926, conveying to it that certain real prop-

TRACT N^o 8790

Scale 1 in = 100 ft.

SEP 10 1925
3 111
44
MAY 5

to Matilda
and
Arthur



erty situated in the County of Los Angeles, State of California, as follows:

PARCEL 1: That portion of Lot Twenty (20) of the Rancho Laguna, in the County of Los Angeles, State of California, as per map attached to the final decree of partition in Case No. B25296, Superior Court of said County, and recorded in Book 6387, Page 1 et seq., of Deeds, in the office of the County Recorder and described as follows:

Beginning at a point in the Southerly line of the Whittier Road distant North seventy-five degrees (75°) Thirty-seven minutes ($37'$) West, six hundred sixty-four and forty-nine hundredths (664.49) feet from the North East corner of said Lot Twenty (20); thence South fourteen degrees (14°) twenty-three minutes ($23'$) West, twelve hundred eighty (1280) feet to a point in the southerly line of said lot distant North seventy-five degrees (75°) thirty-seven minutes ($37'$) West, six hundred sixty-four and forty-nine hundredths (664.49) feet from the South East corner of said Lot Twenty (20); thence along the Southerly line of said lot, north seventy-five degrees (75°) thirty-seven minutes ($37'$) West, one hundred thirty-eight and six hundredths (138.06) feet to the South East corner of the land conveyed by R. W. Poindexter and wife, to Samuel Pawder and Mary Maud Pawder, by deed filed for [95] record March 28th, 1921; thence North fourteen degrees (14°) twenty-three minutes ($23'$) East along the East line of land so conveyed,

twelve hundred eighty (1280) feet to the southerly line of the Whittier Road; thence along said southerly line South seventy-five degrees (75°) thirty-seven minutes ($37'$) East, one hundred thirty-eight and six hundredths (138.06) feet to the point of beginning.

PARCEL 2: That portion of lot Twenty-three (23) of the Rancho Laguna, in the County of Los Angeles, State of California, as per map attached to the certified copy of the final decree of partition, in Case No. B-25296, of the Superior Court of said County, recorded in Book 6387 Page 1 et seq., of Deeds, Records of said County, described as follows:

Beginning at an iron pipe set in the Northerly line of said Lot Twenty-three (23) at a point distant North seventy-five degrees (75°) thirty-seven minutes ($37'$) West, four hundred ninety-eight and eighty-five hundredths (498.85) feet from the most Easterly corner of said Lot; thence South fourteen degrees (14°) twenty-three minutes ($23'$) West, twenty hundred forty-four and sixty-nine hundredths (2044.69) feet to an iron pipe set in the North Easterly line of the Anaheim Telegraph Road at a point distant South sixty-one degrees (61°) twenty minutes ($20'$) forty-five seconds ($45''$) East, eight hundred forty-seven and thirty hundredths (847.30) feet from the most Westerly corner of said Lot; thence along the North Easterly line of said Road, North sixty-one degrees (61°) twenty minutes ($20'$) forty-five seconds ($45''$) West,

eight hundred forty-seven and thirty hundredths (847.30) feet to an iron pipe at the most Westerly corner of said Lot Twenty-three (23); thence North fourteen degrees (14°) twenty-three minutes (23') East, eighteen hundred thirty-five and eighty-three hundredths (1835.83) feet to an iron pipe set at the most Northerly corner of said Lot; thence along the dividing line between Lots Twenty (20) and Twenty-three (23) of said Rancho Laguna, South seventy-five degrees (75°) thirty-seven minutes (37') East, eight hundred twenty-one and fifteen hundredths (821.15) feet to the point of beginning; and being marked on said map "John F. Coutts". [96] and as shown by Guarantees No. 607622 and 668355 of the Title Guarantee and Trust Company, dated August 21, 1935 and August 9, 1926, the title to said property vested in the SECURITY TRUST & SAVINGS BANK, a corporation, free of encumbrances, except

(1) Taxes for the fiscal year 1926-27.

That no consideration was paid by said Trustee for the conveyance to it of said real property, but the consideration therefor was heretofore paid by Robert James Richards and Arabella Grace Richards, his wife, and the same was received by said Trustee herein, IN TRUST, with power of sale, for the purpose of subdividing, renting, leasing, selling and conveying said property in accordance with the terms and conditions hereinafter set forth.

ARTICLE FIRST: During the continuance of these trust the Beneficiaries agree as follows:

(a) To pay before delinquency all taxes and assessments levied and assessed against and upon the property covered hereby.

(b) To pay, when due, all other claims, liens and encumbrances affecting, or purporting to affect the title to the property covered hereby, and all costs, charges, interest and penalties on account thereof; and also all costs, fees, charges and expenses of the Trustee and of these Trusts.

(c) To appear in and defend or cause to be defended any action or proceeding at law affecting, or purporting to affect, the property covered hereby, these trusts, or the rights of the Trustee hereunder; and the said Beneficiaries hereby agree to pay all costs and expenses of any such action or proceeding, together with attorneys fees in a reasonable sum to be fixed by the Court whether any such action or proceeding progress to judgment or not, and whether brought by or against the Trustee hereunder.

(d) To protect, preserve and defend said property and the title thereto, and to keep said property in good condition, by proper care, inspection, repair, cultivation, irrigation, fertilization or otherwise, and to permit no waste or deterioration thereof, and also to pay for all improvements contracted for or ordered by the said Beneficiaries or their agent.

(e) To file with the Trustee a copy of each contract let for any improvements to be placed on each unit of the trust property as subdivided, and any such improvements placed upon the trusts prop-

erty will be superintended by the Agent, hereinafter appointed. [97]

(f) In the event the Beneficiaries shall fail to put in and pay for the improvements promised and guaranteed by them or their agents to the purchasers of lots or parcels of property in this Trust, the Trustee shall have the authority, and is hereby given express authority, to contract for and to have installed upon the property all or any of said improvements so promised and guaranteed by the Beneficiaries, and for the purpose of paying for said improvements, is hereby given the further authority and right to impound sufficient funds out of the moneys coming to it under this Trust belonging to the Beneficiaries to pay for the said improvements so contracted, either by the Beneficiaries or by the Trustee on behalf of said Beneficiaries.

The Beneficiaries agree to file with the Trustee specifications covering the improvements so promised by them or their agents and should the Beneficiaries fail so to do, the Trustee is hereby given the authority to contract and pay for improvements, which in its sole discretion, shall appear to said Trustee to meet the promises of the Beneficiaries or their agents as set forth either in the printed matter of the Beneficiaries or their agents or from evidence presented to the Trustee by purchasers of said trust property.

(g) The Trustee shall not be required to issue any deed or contract until said Beneficiaries have

filed with the Trustee a copy of each such contract as called for in paragraph (e) herein.

(h) The said Beneficiaries agree to file with the Trustee a copy of all of the advertising and printed matter used by them or their agents in connection with the sale of the trust property and also a form of the receipt given to the purchasers for any moneys received by them in connection therewith; also a copy of any promises and representations made by themselves or their agents as to improvements to be placed upon the trust property, and as to any representations to their purchasers as to any re-sales to be made by them, and also which they may permit their sub-agents to make and represent to their purchasers.

(i) To repay, within thirty (30) days from the date of advancement, and without demand, all sums advanced or expended by the Trustees under the terms hereof, with interest thereon from the date of advancement until repaid, at the rate of seven per cent (7%) per annum. Should said Beneficiaries fail or refuse to make any of the payments, or do any of the acts in the manner and at the times above provided, then the Trustee, without notice to the Beneficiaries, may make or do the same in such manner and to such extent as [98] they, or either of them may select, and to that end, said Trustee may enter and take possession of said property at such time or times and for such period or periods as they or either of them may deem necessary and/or proper; and said Trustee may pay, purchase,

contest or compromise any claims, liens, or incumbrances which in their judgment or the judgment of either of them appear to affect said property or these trusts, and may advance money or moneys from time to time for any payment or purpose whatsoever in connection with this trust; it being distinctly understood, however, that the Trustee shall be under no obligation to do any of the things mentioned above.

Upon failure of the Beneficiaries to repay to the Trustee any sums advanced by them as herein provided for, together with interest thereon at the time and in the manner as herein specified such act shall constitute a default hereunder and subject the Beneficiaries to a sale of their rights hereunder as provided in Article.....herein.

ARTICLE SECOND: The real property covered hereby is to be subdivided and the same shall be improved by the Beneficiaries hereunder in such manner as shall be agreed upon by said Trustee and said Beneficiaries.

ALL COSTS AND EXPENSES, however, incident to such subdivision and improvements shall be borne solely by said Beneficiaries, and no part thereof shall be borne by said Trustee.

AND said Beneficiaries, by their approval of this Declaration, also do promise and agree to protect and save harmless said Trustee hereunder from all loss, damage, liability and expense, by reason of such subdivision and improvements of the Trust property and likewise do promise and agree to fur-

nish to the Trustee, prior to incurring any obligations in connection with such subdivision and improvements, bond or bonds in substance and in form approved by the Trustee, protecting and indemnifying the Trustee from all loss, damage, liability and expense, by reason of the subdivision and improvements of the trust property.

ARTICLE THIRD: The Trustee shall rent, lease, sell or convey said property or any portions thereof and/or the lots or any part of any lot or lots in any subdivision thereof to such person or persons and at such prices and upon such terms and conditions as said Trustee shall deem advisable. **PROVIDED** that the sales prices of said lots or parts of any lot or lots shall not be less than those indicated on the Schedule of Minimum Sales Prices hereafter to be agreed upon by said Trustee and the Beneficiaries hereunder, a copy of which sales prices shall be attached hereto and shall be a part hereof. [99]

It is mutually understood and agreed between the Trustor, Trustee and Agent, hereinafter appointed, that the sales prices of any unsold lot or parts of any unsold lot or lots shall be increased two per cent (2%) ninety days after the date of the execution of this Trust Agreement, and a two per cent (2%) increase shall be made on all unsold lots or parts thereof every sixty days thereafter.

ARTICLE FOURTH. All proceeds received by said Trustee, arising from each sale made hereunder or from the rents, leases, and sales of said

property, shall be disbursed and distributed as follows:

1. As to sales made for cash, the Trustee shall credit:

(a) to a "Commission Fund" twenty-two and one-half ($22\frac{1}{2}\%$) per cent of the sales price of each lot or part thereof so sold as commission due the Agent hereunder.

(b) The balance to the "General Fund".

2. As to sales made for other than all cash, the Trustee shall distribute each initial payment received by it and each payment of principal thereafter received, as follows:

(a) One-third ($\frac{1}{3}$) thereof to the "Commission Fund" until the commissions due the Agent for such sale shall have been paid in full.

(b) Two-thirds ($\frac{2}{3}$) to the "General Fund".

3. All interest received shall by the Trustee be distributed to the "General Fund".

4. The moneys in the "Commission Fund" shall be distributed monthly by the Trustee to the Agent hereunder.

5. Out of the money distributed to the "General Fund" the Trustee shall pay:

(a) The costs, fees and expenses and advancements (if any) with interest, hereunder of said Trustee.

(b) Either before or after delinquency, all taxes and assessments, both general and special, levied,

assessed or imposed on or against said property or payable by the purchaser thereof from the Trustee.

Should the money in the hands of the Trustee available for that purpose be insufficient to pay said taxes or [100] assessments when due, then the Beneficiaries, by their ratification of this Declaration of Trust, covenant and agree to immediately pay to the Trustee any deficiency in the amount due on said taxes and assessments.

(c) All bills for labor incurred and materials furnished for the improvement of said property, upon the approval thereof by the Beneficiaries or Leeds & Barnard, as their engineers, or any other person designated by them.

(d) Interest on unpaid commissions of the Agent as hereinafter provided.

(e) And the remainder thereof not otherwise required for the purposes of this Trust to the said Robert James Richards and Arabella Grace Richards as joint tenants, Beneficiaries hereunder, upon the death of either, payments to be made to the survivor.

ARTICLE FIFTH: The Trustee at the request of the Beneficiaries hereunder appoints P. N. Snyder, of Los Angeles, California, as their exclusive agent to subdivide and improve and to solicit and obtain purchasers for such part of said property of which a subdivision map shall have been filed and designated herein as Unit No. 1 and to generally assume the care and custody thereof.

ALL SALES to be made by said agent shall be for prices not less than those indicated on the "Minimum Sales Price List" to be attached hereto and upon the following minimum terms:

20% of the actual sales price in cash at the date of sale, and the balance in monthly installments in an amount equal to not less than 2% of the actual sales price on all business lots, and 25% of the actual sales price in cash at the date of sale and the balance in monthly installments in an amount not less than 2% of the actual sales price on all residence lots, and interest on the unpaid balance in both cases at the rate of seven per cent per annum, payable quarterly.

A discount of 5% may be allowed if the purchase price is made in one cash payment, or a discount of 5% on the cash payment if said cash payment is in excess of 60% of the sales price of said lot or lots, or a discount of 5% may be allowed on the balance due on the purchase price of any lot or lots if such balance due is more than 60% of the purchase price which is paid in one cash payment, and a 5% building discount may be allowed to any cash purchaser of a lot at such time that a building thereon shall have been completed within one hundred and twenty (120) days from the date of executing the deed to said property and said building has been completed in its entirety with the exception of the interior finish. [101]

The Beneficiaries hereby reserve that portion of said property to be known in the new subdivision as

Lots 4, 40, 41 and 42, which lots the Trustee agrees to convey to said Beneficiaries as soon as said map is recorded.

AND each sale shall be subject to such conditions, restrictions and/or reservations and covenants as the said Trustee shall deem advisable.

The Trustee shall sell under the terms of this Trust the North one-half ($\frac{1}{2}$) and/or the South one-half ($\frac{1}{2}$) of any lot facing on Atlantic Boulevard, or the East one-half ($\frac{1}{2}$) and/or the West one-half ($\frac{1}{2}$) of any lot fronting on Mines Avenue, as per the Schedule of Sales Prices attached hereto and under the terms and conditions of this Trust, and the Trustee will issue separate deeds or contracts covering such portions.

No sale shall be made with any express or implied warranty or promise as to improvements to be made except as those specifically agreed upon by the Trustee.

This agency appointment shall be for a period of eight (8) months from the date hereof, but if the aggregate value of the lots sold in said subdivision either in cash or under contracts of sale issued by the Trustee hereunder before the expiration of said term of eight months shall equal one-half of the total aggregate value of all the lots in said subdivision as shown by the Minimum Schedule of Selling Prices to be hereto attached and herein referred to, then the Agent may, at his option, by written notice to the Trustee and Beneficiaries prior to the expiration of said term of eight months ex-

tend the term of his appointment for a further period of eight months.

In the event of the cancellation or revocation of this appointment the Trustee shall appoint such Agent or Agents as the Beneficiaries may direct, or may rent, sell, lease or convey said property to such person or persons and upon such terms as the Beneficiaries hereunder may direct. All sales of said property, however, shall be subject to the approval of the Trustee.

The said Agent shall assume the general care and custody of the subdivided unit, including the supervision of all the improvements to be placed upon the Trust property, which said improvements shall include the installation of gas, water and electricity.

The said Agent is to be paid a commission of $22\frac{1}{2}\%$ of the net sales price of each lot (which shall be the gross [102] price less all discounts allowed and not including any interest thereon), and said commission shall be paid in the manner and at the times as in this Trust Agreement provided.

In addition thereto, said Agent shall receive interest at the rate of 7% per annum on respective unpaid commissions from the date that respective purchasers have begun to pay interest until said unpaid commissions are fully paid or said sale cancelled.

The Agent shall pay out of his commissions for the advertising of the Trust property, selling expenses and his sub-agents' commissions.

The sale of each lot or portion of any lot shall be considered separately, and the receipts from that sale will be used to pay commissions solely upon said sale.

It is understood and agreed that the Trustee hereunder shall not be liable to the Beneficiaries nor to any other person for any default, defalcation or wrong-doing of the said Agent or its sub-agents.

For any service rendered by said Agent under this appointment, it shall be entitled only to such commissions as are herein set forth, and in any event, it shall be entitled only to the payment to it of the proportionate amount of the moneys actually paid in by any purchaser under any agreement of sale, or other evidence of sale and purchase in accordance with the agreed upon manner of distribution, and that no charge or claim shall be made upon the SECURITY TRUST & SAVINGS BANK, Trustee, for any portion of the unpaid commissions payable from uncollected installments owing by any such purchaser; and this Trustee, at its discretion, and for any cause whatsoever, without liability to said Agent for the balance of the unpaid commission, may cancel, annul or compromise any agreement of sale theretofore executed by it upon any portion of the foregoing described lands; the right of said Agent to a commission for such sale to cease upon any such cancellation, annulment, rescission or compromise.

The said Agent agrees to make a diligent and business-like effort to sell the said property, and

agrees to advertise the same at such times and in such manner as to create a material assistance in the selling of said property, and to pay for all such advertising.

Agent agrees to hold Trustee and Beneficiaries harmless from all loss, damage or claim arising from injury to person or property and/or out of misrepresentation or alleged misrepresentation in their acts under the agency hereby created, [103] and hereby agrees to save and hold Trustee and Beneficiaries harmless from all loss, damage or claim arising out of any default, defalcation or wrongdoing of themselves or of their salesmen or sub-agents.

The Agent agrees that nothing herein contained is intended to, nor shall it be construed as conferring any authority on Agent to execute deeds or contracts to sell said property or to enter into contracts in the name of the Trustee except temporary reservation contracts, or to incur liabilities on behalf of the Trustee and Beneficiaries; and Agent expressly agrees that except as to such temporary reservation contracts, they will enter into all contracts and incur all liabilities in their own names and behalf only and not in the name or on the behalf of Trustee and Beneficiaries.

P. N. Snyder, hereinbefore appointed agent, by his acceptance of this Declaration of Trust, accepts the agency hereby created, subject to all the terms and conditions as herein set forth.

ARTICLE SIXTH: The purchaser of each lot or lots sold hereunder from July 1st, to December 31st, 1926, shall pay the second half of taxes for 1926-27.

ARTICLE SEVENTH: The Trustee shall execute all deeds and other instruments in writing, whatsoever requisite and necessary for the renting, leasing, transferring or conveying of said property or any portion thereof. Such deeds and instruments shall be subject to conditions, restrictions, reservations and rights of way of record, if any, and shall also contain conditions and restrictions as shall be directed by the said Beneficiary and agreed to by the Trustee, and shall be subject to any and all ordinances of any city in which the property is located, or by any governmental or public agency creating or dealing with zones and prescribing the classes of buildings, structures and improvements in said zones and the use thereof.

The Trustee shall be under no liability or responsibility to the Beneficiary hereunder, nor to any other person, for the validity of any condition or restriction inserted in any Agreement of Sale or Deed, nor shall the Trustee be called upon to defend any suit, proceeding or action at law or in equity, to enforce the performance of, or enjoin the breach of, any such condition, restriction or ordinance, although the Trustee may defend or prosecute such action at its election, upon the request of the said Beneficiaries, or any other person, and upon being indemnified for its costs and expenses in any such suit or suits.

ARTICLE EIGHTH: The said Trustee shall not be required to attend to or procure any insurance upon any building upon said [104] property, or to collect or disburse any rents thereof, so long as this Trust shall continue, but all such services shall be performed and the expenses thereof borne by the said Beneficiary or his representatives.

ARTICLE NINTH: During the continuance of these trusts, the Trustee is authorized to pay: taxes levied and assessed against said property; any special assessment levied against said property or any portion thereof, of which the Trustee shall receive due notice; any other liens or charges against said property necessary for the preservation or maintenance thereof, but all of the above mentioned payments shall be at the expense of the Beneficiaries hereunder, and the said Beneficiaries, by their ratification of this Declaration of Trust, covenant and agree to pay to the said Trustee sufficient moneys with which to pay the same before the same becomes delinquent.

ARTICLE TENTH: The Trustee reserves unto itself the right, and shall have the power, solely within its discretion for the benefit of the Beneficiaries hereunder, to replace, renew, or extend any debt or incumbrance upon the Trust property, or any part thereof, when the same becomes due or at any time such replacement, renewal or extension may be in the judgment of said Trustee for the best interests of this Trust or necessary to protect the Trust property; and upon such terms and upon

such conditions and by such means of security as said Trustee may deem proper, including the right and power to convey the fee title to said property or any part thereof, to such person or corporation as it shall select for the purpose of executing and delivering the necessary note, mortgage, deed of trust, or other hypothecation, to evidence and secure such debt or debts and of reconveying said property said Trustee subject thereto, and when such reconveyances shall been so made, said Trustee shall thereupon be restored to its full estate hereunder.

It being distinctly understood that any such conveyance by said Trustee, for the purposes hereinabove stated, shall in no wise be construed as a suspension or termination of this Trust or as in any way impairing, changing or limiting the powers of the said Trustee, as herein expressed and intended. But the powers conferred in this Article shall not be exercised by the Trustee unless the Mortgagees and the Payee hereunder shall have been paid, except with their written consent.

ARTICLE ELEVENTH: The Trustee shall not be obligated to convey to the said Beneficiaries, nor to any other person, any land covered by any existing Agreement of Sale, so long as such Agreement is in force and effect, but shall be and is hereby [105] authorized to retain the title to all of said land covered by such Agreement until said Agreement has been paid in full by the holder thereof, and the land shall then be deeded to the holder of said Agreement in accordance with the

terms thereof, nor shall the trustee be obligated to convey, upon the order of the Beneficiaries hereunder, or upon the order of any party to this Trust, any property upon which an Agreement to Convey has been cancelled, until time as a cancellation thereof has been affected in form satisfactory to the said Trustee.

It is understood and agreed, however, that the Trustee, upon being indemnified by the Beneficiaries for its costs, fees, and expenses, shall upon request of the said Beneficiaries, take such legal action as may be necessary for the enforcement of the terms of any of the Agreements then outstanding and in default or take such legal action as may be necessary to obtain a Court decree quieting its title or obtain such other acquittance as is satisfactory to the Trustee, to any portion of the Trust property upon which an Agreement to Convey has been, or is to be, forfeited provided that the purchaser's unrecorded copy of such Agreement has not been surrendered to the Trustee for cancellation, but all at the cost and expense of the said Beneficiaries.

ARTICLE TWELFTH: The costs, fees and expenses of the Trustee hereunder are hereby fixed as follows:

First: For accepting this Trust and executing this Declaration a sum of one-tenth of one per cent ($1/10$ of 1%) of the gross selling price of said property.

Second: One per cent (1%) of the gross sales price of any sale where the sales price shall be paid in one cash payment.

Third: Two and one-half per cent ($2\frac{1}{2}\%$) of the gross sales price of any sale, including interest thereon, and where the sales price is \$6,000.00 or more and paid in deferred payments.

Fourth: Three per cent (3%) of the gross sales price of any sale, including interest thereon, and where the sales price is less than \$6,000.00 and paid in deferred payments. Three per cent (3%) on all other sums collected under the provisions of this Trust Agreement. [106]

PROVIDED, HOWEVER, that the aggregate compensation under items Second, Third and Fourth shall not be less than Two Hundred Fifty (\$250.00) Dollars per year.

Fifth: Two and 50/100 (\$2.50) Dollars per lot or part of lot for each contract in duplicate and/or mortgage and/or trust deed, and two and 50/100 (\$2.50) Dollars per lot or any part of lot for each deed executed by said Trustee.

Sixth: The necessary cost of guarantees of title, recording charges, escrow charges, the cost of printing forms of deeds, and any other charges or expenses necessary to consummate the sales of the property.

Seventh: A reasonable compensation for any service rendered by said Trustee in the execution of this Trust for which the costs, fees and expenses are not herein provided, and including a reasonable compensation (in addition to the counsel fees and other expenses) for any service rendered under this Trust by the said Trustee in connection with

any action or proceeding at law, or in paying or attending to the payment of any taxes or assessments in connection with any income tax, inheritance tax or estate tax matter affecting the Trustee any Beneficiaries hereunder, or the Trust property or any portion thereof.

ARTICLE THIRTEENTH: The said Beneficiaries, by their ratification of this Declaration of Trust, covenant and agree to hold and save harmless the Trustee hereunder from any and all liability, claims, demands, injuries or damages which it may suffer or sustain by reason of the acceptance of this Trust and its position as Trustee hereunder, and to protect said Trustee from any loss, damage, cost or expense by reason of the improvements of any character whatsoever made on said property, and against all expenses incurred by any Agent of the Beneficiaries or any Agent appointed by the trustee at the request of the Beneficiaries in the handling or sale of said property, and, upon demand of the Trustee, to furnish said Trustee with such further guaranty or indemnity as said Trustee shall deem necessary to protect said Trustee and said lands against any loss, damage, cost or expense by reason of such sale or improvements.

ARTICLE FOURTEENTH: If the whole or any portion of the interest of the Beneficiaries hereunder, or any Beneficiary, if [107] there be more than one Beneficiary, or the proceeds or avails of any such interest, shall, at any time during the terms or upon the expiration of this Trust, become liable for payment of any estate, inheritance, in-

come or other tax, charge or assessment which said Trustee shall be required to pay, then unless such taxes shall have been fully paid when due, by someone else, said Trustee is hereby authorized, without previous notice to or demand upon any person, to pay such taxes out of the whole or any portion of the interest so affected, and for that purpose is hereby generally and specifically authorized and empowered, without previous notice or demand to or from any person whomsoever, to sell, at public or private sale, and convey sufficient portion of such interest up to the whole thereof as shall fully pay all such taxes, all costs and expenses of such sale, all the sums, together with interest thereon at seven per cent (7%) per annum, payable quarterly, then due the Trustee under this Trust or which it may have advanced or expended in the care, management and protection of the Trust Estate, and in the payment of any said estate, inheritance, income or other taxes therein, and which said Trustee may be required to pay. Until such sums have been fully paid, they shall constitute a first lien on all the property subject to this tax, and in favor of said Trustee.

ARTICLE FIFTEENTH: If the funds in the hands of said Trustee belonging to this Trust are not sufficient to pay, when due, the principal or interest of any mortgage or deed of Trust, or other debt, pledge or incumbrance against the property covered hereby, or any taxes, insurance, assessments, liens, costs, charges or other expenses necessary or proper for the preservation, maintenance and

care of said Trust Estate or the title thereto, or the costs, charges and expenses of this Trust, then and in any such event, the Trustee is authorized to levy assessments on the Beneficiaries, from time to time, to meet such charges and expenses, and said Beneficiaries, their heirs, successors and assigns, do by their approval and ratification of the terms of this Declaration of Trust, well and truly bind themselves to pay to the Trustee their proper proportion thereof on or before the day upon which the same shall become due and payable.

AND in the event that any one or more of said Beneficiaries shall fail to so pay his proportionate share of any such sum or assessment on or before the day it shall become due and payable, said Trustee, or any one of the other Beneficiaries of the Trust may pay such share to the end that said Trust Estate, the trusts herein contained, and all parties interested herein, may be protected; and any such Beneficiary shall be entitled to receive seven per cent (7%) interest upon any sums so advanced, from the date of advancement until repaid.

IN THE EVENT of such default and exercise of the right [108] above granted, the Trustee shall, upon the written demand of any party making such payment, and after thirty (30) days demand on such defaulting Beneficiary for the repayment of such amount advanced (if such amount advanced is not repaid within thirty (30) days after such demand), sell the interest of such defaulting Beneficiary hereunder, and all his interest in and to the proceeds and avails arising or growing out of this

Declaration of Trust, or so much thereof as it shall be necessary to sell in order to pay to the party making such payment the amount so paid by him, with interest thereon at the rate of seven per cent (7%) per annum, the expenses of such sale and the compensation of the Trustee in the sum of One Hundred (\$100.00) Dollars.

Such sale shall be made subject to all of the terms and conditions of this Trust at either public or private sale, at the option of the Trustee.

If said sale shall be made at private sale, the interest of such defaulting Beneficiary shall be sold for a price of not less than the amount such defaulting Beneficiary shall have paid on account of said purchase price and the costs of such sale. Should the Trustee elect to sell such interest at public auction, then said sale shall be made in the following manner, to-wit:

Said trustee shall first publish notice of the time and place of such sale, with a brief description of the interest of such defaulting Beneficiary hereunder to be sold, at least once a week for four successive weeks in some newspaper published in the County of Los Angeles, State of California, and may, from time to time, postpone such sale by publication in the same newspaper, or, at its option by public announcement thereof at the time and place of sale so advertised; and on the date of sale, or on the date to which such sale may be postponed, said Trustee shall sell the Beneficial Interest hereunder so advertised, or any portion thereof, at public auction, at such place in the City of Los Angeles,

State of California, as it may have designated to the highest bidder, for cash, in LAWFUL MONEY of the United States, and any of the Beneficiaries hereunder, or any other person, may bid and purchase at such sale, and thereafter such purchaser shall have all of the rights and privileges of an original Beneficiary hereunder, subject, however, to all of the terms and conditions of this Trust.

AND said Beneficiaries do hereby, by their approval of this Trust, jointly and severally transfer and convey to said Trustee title to said Beneficial Interest or Interests, sufficient to enable said Trustee to convey and assign said interest or interests upon a sale thereof, in event of a default as above provided.

Upon a sale of said interest at either public or private sale said Trustee shall execute and deliver to the purchaser or [109] purchasers, his or their heirs or assigns, an assignment of the interest so sold, and out of the proceeds thereof, shall pay:

1st. The expenses of such sale and the compensation of the Trustee in the sum of One Hundred (\$100.00) Dollars, in lawful money of the United States, which amount shall become due and payable upon any demand made as hereinbefore provided for the sale of the interest of such defaulting Beneficiary.

2nd. To the person having paid the same, the amount paid for the account of said defaulting Beneficiary as above provided, together with interest thereon at the rate of seven per cent (7%) per annum, from the date of such default to the date of

receipt by the Trustee of proceeds from such sale; and

LASTLY: The balance or surplus of such proceeds, if any, to the order of such defaulting Beneficiary, his heirs or assigns.

IN THE EVENT of a sale of the interest of such defaulting Beneficiary, or any part thereof, at either public or private sale, and the execution of an assignment thereof under these trusts, then the recitals therein of default, and of such publication of notice of sale, and of a demand that such sale should be made, postponement of sale, terms of sale, sale, purchaser, payment of purchase money and of any other fact or facts affecting the regularity or validity of such sale, shall be conclusive proof of such default, of the due publication of such notice, that such sale was made on due and proper demand and of all the facts recited in said assignment; and such assignment, with such recitals therein, shall be effectual and conclusive against the said defaulting Beneficiary, his heirs or assigns and all other persons, as to such default, publication and demand, and as to all other facts recited therein, and the receipt for the purchase money contained in any assignment executed to a purchaser as aforesaid shall be sufficient to discharge such purchaser from all obligation to see to the proper application of the purchase money.

ARTICLE SIXTEENTH: The interest under this Trust of each Beneficiary and the Agent hereunder is personal property and that no such Beneficiary or Agent has any right, title or interest in or

to the property covered hereby, and has no right or power to in any manner apply for or secure the dissolution or termination of this Trust, or the partition or the division of any of the Trust property; the sole right and power of such Beneficiary hereunder being to enforce the performance of the terms of this Trust, as expressly set forth in this Declaration.

PROVIDED, HOWEVER, that after the payment in full of any indebtedness that may hereafter be secured hereby, and the termination of the Agency Appointment, if any, made in accordance with the terms of this Trust, all of the Beneficiaries of this Trust, by a jointly written direction of the Trustee, may close and terminate this Trust. In no event, however, shall the Trustee [110] be required to convey any property then covered by any existing agreement to convey executed by the Trustee, but the Trustee is expressly empowered and directed to retain the title to the property covered by any such existing Agreement to Convey, for the benefit of the real owner thereof. The proceeds and avails received from any such Agreement to Convey shall be applied by the Trustee to the payment of any unpaid commission due, and to the costs, fees and expenses of the Trustee, and the balance of the proceeds shall be paid by the Trustee to the then real owner of such Agreement to Convey.

ARTICLE SEVENTEENTH: The said Trustee makes no representation of fact as to the title to the property held under this Trust, but has the right to assume that the Guarantee of Title issued by any

Title Company doing business in the County in which the Trust property, or some part thereof, is situated, correctly shows the record title to said property and the incumbrances thereon.

ARTICLE EIGHTEENTH: The Beneficiaries may sell, transfer and assign all or any part of their beneficial interest herein, provided that no sale or transfer of any beneficial interest hereunder shall be valid or binding upon said Trustee until an executed original of the assignment or other instrument evidencing such sale or transfer has been filed with said Trustee with a transfer fee of \$10.00 for each transfer, and shall be endorsement thereon be accepted by the Assignee and Trustee; excepting only where such interest may pass or be transferred by Decree or Order of Court, and then only upon satisfactory proof of the regularity and validity of the proceedings in such matter being presented to said Trustee.

ARTICLE NINETEENTH: This Trust shall not cease or terminate in any event until all the costs, fees and expenses of said Trustee hereunder shall have been fully paid, nor until each party to this Trust has delivered to the Trustee for cancellation, its, his or her certified copy of this Declaration of Trust, together with the Certificate of Beneficial Interest attached thereto, if any.

ARTICLE TWENTIETH: The term "Beneficiary" used herein shall include Beneficiaries; that the masculine gender shall include the feminine and neuter genders; that the singular number shall include the plural number, all wherever and as the

context of the language herein contained shall indicate.

ARTICLE TWENTY-FIRST: The conditions and provisions hereof shall inure to and bind the Beneficiaries as joint tenants and their assigns and also the heirs, legatees, devisees, administrators, executors, successors and assigns of the surviving joint tenant, and shall also inure to and bind all other parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. [111]

IN WITNESS WHEREOF, the said SECURITY TRUST AND SAVINGS BANK has caused these presents to be executed in its corporate name by its Vice President and Assistant Secretary, thereunto duly authorized, and its corporate seal to be hereto attached as of the 6th day of August, 1926.

SECURITY TRUST & SAVINGS BANK

By M. N. AVERY,

OK [Corporate Seal]

Vice President.

E. P.

By E. B. PENTZ,

Assistant Secretary.

ROBERT JAMES RICHARDS,

ARABELLA GRACE RICHARDS,

Beneficiaries.

I, the undersigned, appointed Agent, accept such appointment subject to all the terms and conditions of this Declaration of Trust.

P. N. SNYDER,

Agent.

A photostatic copy of Petitioner's Exhibit "G" is in the words and figures as follows: [112]

Petitioner's Exhibit "H", attached to the foregoing affidavit, is in the words and figures as follows:

DECLARATION OF TRUST.

Trust No. 2-1899.

KNOW ALL MEN BY THESE PRESENTS:

That SECURITY TRUST & SAVINGS BANK, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, California, hereinafter sometimes called the "TRUSTEE", has received from ROBERT JAMES RICHARDS and ARABELLA GRACE RICHARDS, his wife, of Los Angeles, California, hereinafter sometimes called the "TRUSTOR" and/or "BENEFICIARIES", a deed dated January 12, 1927, filed for record, conveying to it that certain real property situated in the County of Los Angeles, State of California, as follows:

That portion of Lot Twenty-three (23) of the Rancho Laguna, as shown on map marked Exhibit "A" filed in Superior Court Case No. B-25296, Records of said County, described as follows:

Beginning at the Southwesterly corner of Tract Number Seventy Hundred Sixty-six (7066), as per map recorded in Book 110, Pages 13 and 14 of Maps, Records of said County; thence Northwest-erly along the Northeasterly line of the Anaheim

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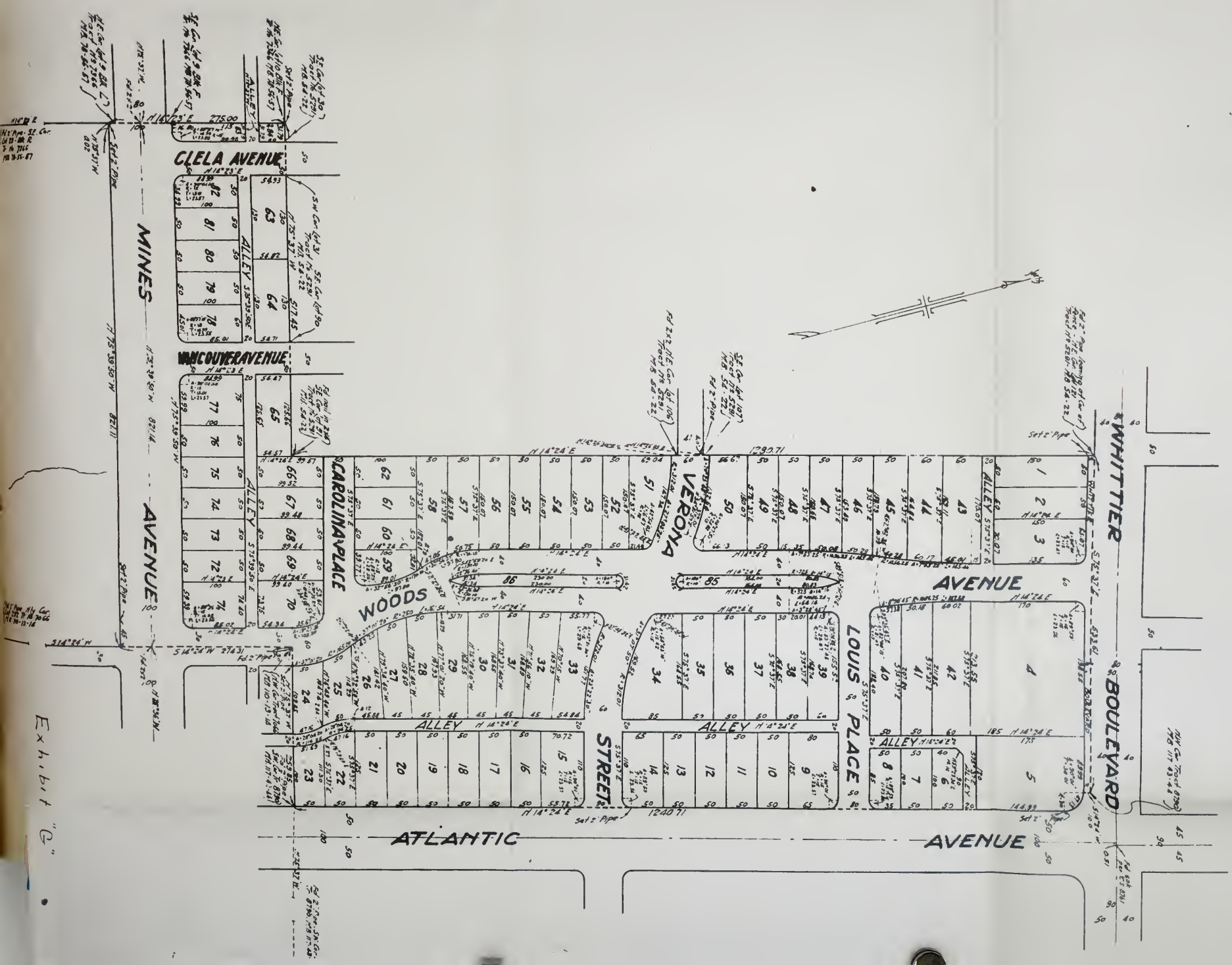


Exhibit "G"

Telegraph Road to the Southwesterly corner of said Lot Twenty-three (23); thence Northerly along the Westerly line thereof to the most Westerly corner of Tract Number Ninety-four Hundred Thirty-six (9436), as per map recorded in Book 129, Pages 8 and 9 of Maps, Records of said County; thence Easterly along the Southerly line thereof to the Westerly line of said Tract Number Seventy Hundred Sixty-six (7066); thence Southerly along said Westerly line to the point of beginning.

and as shown by Guarantee No. 699474, of the Title Guarantee and Trust Company, dated Feb. 28, 1927, the title to said property vested in the SECURITY TRUST & SAVINGS BANK, a corporation, free of incumbrances, except: [114]

(1) A right of way and perpetual easement for sewer pipe over a strip of land Eight and Sixty-six Hundredths (8.66) feet wide lying Four and Thirty-three Hundredths (4.33) feet on either side of the Westerly prolongation of a line parallel with and Four and Thirty-three Hundredths (4.33) feet, South, measured at right angles to the South line of Lot Two Hundred Ninety-Six (296), Tract Number Seventy Hundred Sixty-Six (7066) as per map recorded in Book 110, Page 13 of Maps, between the Westerly boundary of said Tract Number Seventy Hundred Sixty-Six (7066) and the Easterly boundary of Tract Number Seventy-three Hundred Sixty-six (7366) as per map recorded in Book 78, Page 56 of Maps, together with the right to enter upon and to pass and repass along said strip, etc., as granted to County Sanitation District No. 2 of

Los Angeles County, by deed dated April 7th, 1926, recorded in Book 6015, Page 44 of Official Records.

THAT no consideration was paid by said Trustee for the conveyance to it of said real property, but the consideration therefor was heretofore paid by Robert James Richards and Arabella Grace Richards, his wife, and the same was received by said Trustee herein, IN TRUST, with power of sale, for the purpose of subdividing, renting, leasing, selling and conveying said property in accordance with the terms and conditions hereinafter set forth:

ARTICLE FIRST: During the continuance of these trusts the Beneficiaries agree as follows:

(a) To pay before delinquency all taxes and assessments levied and assessed against and upon the property covered hereby.

(b) To pay, when due, all other claims, liens and encumbrances affecting, or purporting to affect the title to the property covered hereby, and all costs, charges, interest and penalties on account thereof; and also all costs, fees, charges and expenses of the Trustee and of these Trusts.

(c) To appear in and defend or cause to be defended any action or proceeding at law affecting, or purporting to affect, the property covered hereby, these trusts, or the rights of the Trustee hereunder; and the said Beneficiaries hereby agree to pay all costs and expenses of any such action or proceeding, together with attorneys fees in a reasonable sum to be fixed by the Court [115] whether any such action or proceeding progress to judgment

or not, and whether brought by or against the Trustee hereunder.

(d) To protect, preserve and defend said property and the title thereto, and to keep said property in good condition, by proper care, inspection, repair, cultivation, irrigation, fertilization or otherwise, and to permit no waste or deterioration thereof, and also to pay for all improvements contracted for or ordered by the said Beneficiaries or their agent.

(e) To file with the Trustee a copy of each contract let for any improvements to be placed on each unit of the trust property as subdivided, and any such improvements placed upon the trust property will be superintended by the Agent, hereinafter appointed.

(f) In the event the Beneficiaries shall fail to put in and pay for the improvements promised and guaranteed by them or their agents to the purchasers of lots or parcels of property in this Trust, the Trustee shall have the authority, and is hereby given express authority, to contract for and to have installed upon the property all or any of said improvements so promised and guaranteed by the Beneficiaries, and for the purposes of paying for said improvements, is hereby given the further authority and right to impound sufficient funds out of the moneys coming to it under this Trust belonging to the Beneficiaries to pay for the said improvements so contracted, either by the Beneficiaries or by the Trustee on behalf of said Beneficiaries.

The Beneficiaries agree to file with the Trustee specifications covering the improvements so promised by them or their agents and should the Beneficiaries fail so to do, the Trustee is hereby given the authority to contract and pay for improvements, which in its sole discretion, shall appear to said Trustee to meet the promises of the Beneficiaries or their agents as set forth either in the printed matter of the Beneficiaries or their agents or from evidence presented to the Trustee by purchasers of said trust property.

(g) The Trustee shall not be required to issue any deed or contract until said Beneficiaries have filed with the Trustee a copy of each such contract as called for in paragraph (e) herein.

(h) The said Beneficiaries agree to file with the Trustee a copy of all of the advertising and printed matter used by them or their agents in connection with the sale of the trust property, and also a form of the receipt given to the purchasers for any moneys received by them in connection therewith; also a copy of any promises and representations made by themselves or their agents as to improvements to be placed upon the trust property, and as to any representations to their purchasers as [116] to any re-sales to be made by them, and also which they may permit their sub-agents to make and represent to their purchasers.

(i) To repay, within thirty (30) days from the date of advancement, and without demand, all sums advanced or expended by the Trustee under the

terms hereof, with interest thereon from the date of advancement until repaid, at the rate of seven per cent (7%) per annum. Should said Beneficiaries fail or refuse to make any of the payments, or do any of the acts in the manner and at the times above provided, then the Trustee, without notice to the Beneficiaries, may make or do the same in such manner and to such extent as they, or either of them may select, and to that end, said Trustee may enter and take possession of said property at such time or times and for such period or periods as they or either of them may deem necessary and/or proper; and said Trustee may pay, purchase, contest or compromise any claims, liens or incumbrances which in their judgment or the judgment of either of them appear to affect said property or these trusts, and may advance money, or moneys from time to time, for any payment or purpose whatsoever in connection with this Trust; it being distinctly understood, however, that the Trustee shall be under no obligation to do any of the things mentioned above.

Upon failure of the Beneficiaries to repay to the Trustee any sums advanced by them as herein provided for, together with interest thereon at the time and in the manner as herein specified, such act shall constitute a default hereunder and subject the Beneficiaries to a sale of their rights hereunder as provided in Article herein.

ARTICLE SECOND: The real property covered hereby is to be subdivided and the same shall be improved by the Beneficiaries hereunder in such

manner as shall be agreed upon by said Trustee and said Beneficiaries.

ALL COSTS AND EXPENSES, however, incident to such subdivision and improvements shall be borne solely by said Beneficiaries, and no part thereof shall be borne by said Trustee.

AND said Beneficiaries, by their approval of this Declaration, also do promise and agree to protect and save harmless said Trustee hereunder from all loss, damage, liability and expense, by reason of such subdivision and improvements of the Trust property and likewise do promise and agree to furnish to the Trustee, prior to incurring any obligations in connection with such subdivision and improvements, bond or bonds in substance and in form approved by the Trustee, protecting and indemnifying the Trustee from all loss, damage, liability and expense, by reason of the subdivision and improvements of the trust property. [117]

ARTICLE THIRD: The Trustee shall rent, lease, sell or convey said property or any portions thereof and/or the lots or any part of any lot or lots in any subdivision thereof to such person or persons and at such prices and upon such terms and conditions as said Trustee shall deem advisable. PROVIDED that the sales prices of said lots or parts of any lot or lots shall not be less than those indicated on the Schedule of Minimum Sales Prices hereafter to be agreed upon by said Trustee and the Beneficiaries hereunder, a copy of which sales prices shall be attached hereto and shall be a part hereof.

ARTICLE FOURTH: All proceeds received by said Trustee, arising from each sale made hereunder or from the rents, leases and sales of said property, shall be disbursed and distributed as follows:

1. As to sales made for cash, the Trustee shall credit:

(a) to a "Commission Fund" twenty-five (25%) per cent of the sales price of each lot or part thereof so sold as commission due the Agent hereunder.

(b) The balance to the "General Fund".

2. As to sales made for other than all cash, the Trustee shall distribute each initial payment received by it and each payment of principal thereafter received, as follows:

(a) one-third ($1/3$) thereof to the "Commission Fund" until the commissions due the Agent for such sale shall have been paid in full.

(b) Two-thirds ($2/3$) to the "General Fund".

3. All interest received shall by the Trustee be distributed to the "General Fund".

4. The moneys in the "Commission Fund" shall be distributed monthly by the Trustee to the Agent hereunder.

5. Out of the money distributed to the "General Fund" the Trustee shall pay:

(a) The costs, fees and expenses and advancements (if any) with interest, hereunder of said Trustee.

(b) Either before or after delinquency, all taxes and assessments, both general and special, levied, assessed or imposed on or against said property or payable by the purchaser thereof from the Trustee.

Should the money in the hands of the Trustee [118] available for that purpose be insufficient to pay said taxes or assessments when due, then the Beneficiaries, by their ratification of this Declaration of Trust, covenant and agree to immediately pay to the Trustee any deficiency in the amount due on said taxes and assessments.

(c) All bills for labor incurred and materials furnished for the improvement of said property, upon the approval thereof by the Beneficiaries or Leeds & Barnard, as their engineers, or any other person designated by them.

(d) Interest on unpaid commissions of the Agent as hereinafter provided.

(e) And the remainder thereof not otherwise required for the purposes of this Trust to the said Robert James Richards and Arabella Grace Richards as joint tenants, Beneficiaries hereunder, upon the death of either, payments to be made to the survivor.

ARTICLE FIFTH: The Trustee at the request of the Beneficiaries hereunder appoints P. N. SNYDER, of Los Angeles, California, as their exclusive agent to subdivide and improve, and to solicit and obtain purchasers for such part of said property of which a subdivision map shall have been

filed and designated herein as Unit No. 1, and to generally assume the care and custody thereof.

ALL SALES to be made by said agent shall be for prices not less than those indicated on the "Minimum Sales Price List" to be attached hereto and upon the following minimum terms:

20% of the actual sales price in cash at the date of sale, and the balance in monthly installments in an amount equal to not less than 2% of the actual sales prices on all business lots, and 25% of the actual sales price in cash at the date of sale and the balance in monthly installments in an amount not less than 2% of the actual sales price on all residence lots, and interest on the unpaid balance in both cases at the rate of seven per cent per annum, payable quarterly.

A discount of 5% may be allowed if the purchase price is made in one cash payment, or a discount of 5% on the cash payment if said cash payment is in excess of 60% of the sales price of said lot or lots, or a discount of 5% may be allowed on the balance due on the purchase price of any lot or lots if such balance due is more than 60% of the purchase price which is paid in one cash payment, and a 5% building discount may be allowed to any cash purchaser of a lot at such time that a building thereon shall have been completed within one hundred and twenty (120) days from the date of executing the deed to said property and said building has been completed in its entirety, with the exception of the interior finish. [119]

AND each sale shall be subject to such conditions, restrictions and/or reservations and covenants as the said Trustee shall deem advisable.

No sale shall be made with any express or implied warranty or promise as to the improvements to be made except as those specifically agreed upon by the Trustee.

This Agency Appointment shall be for a period of eight (8) months from the date hereof, but if the aggregate value of the lots sold in said subdivision either in cash or under contracts of sale issued by the Trustee hereunder before the expiration of said term of eight months shall equal one-half of the total aggregate value of all of the lots in said subdivision as shown by the Minimum Schedule of Selling Prices to be hereto attached and herein referred to, then the Agent may, at his option, by written notice to the Trustee and Beneficiaries prior to the expiration of said term of eight months extend the term of his appointment for a further period of eight months.

In the event of the cancellation or revocation of this appointment the Trustee shall appoint such Agent or Agents as the Beneficiaries may direct, or may rent, sell, lease or convey said property to such person or persons and upon such terms as the Beneficiaries hereunder may direct. All sales of said property, however, shall be subject to the approval of the Trustee.

The said Agent shall assume the general care and custody of the subdivided unit, including the

supervision of all the improvements to be placed upon the Trust property, which said improvements shall include the installation of gas, water and electricity.

The said Agent is to be paid a commission of 25% of the net sales price of each lot, (which shall be the gross price less all discounts allowed and not including any interest thereon), and said commission shall be paid in the manner and at the times as in this Trust provided.

In addition thereto, said Agent shall receive interest at the rate of 7% per annum on respective unpaid commissions from the date that respective purchasers have begun to pay interest until said unpaid commissions are fully paid or said sale cancelled.

The agent shall pay out of his commissions for the advertising of the Trust property, selling expenses and his sub-agents commissions.

The sale of each lot or portion of any lot shall be considered separately, and the receipts from that sale will be used to pay commissions solely upon said sale. [120]

It is understood and agreed that the Trustee hereunder shall not be liable to the Beneficiaries nor to any other person for any default, defalcation or wrong-doing of the said Agent or its sub-agents.

For any service rendered by said Agent under this appointment, it shall be entitled only to such commissions as are herein set forth, and in any

event, it shall be entitled only to the payment to it of the proportionate amount of the moneys actually paid in by any purchaser under any agreement of sale, or other evidence of sale and purchase in accordance with the agreed upon manner of distribution, and that no charge or claim shall be made upon the SECURITY TRUST & SAVINGS BANK, Trustee, for any portion of the unpaid commissions payable from uncollected installments owing by any such purchaser; and this Trustee, at its discretion, and for any cause whatsoever, without liability to said Agent for the balance of the unpaid commission, may cancel, annul or compromise any agreement of sale theretofore executed by it upon any portion of the foregoing described lands: the right of said Agent to a commission for such sale to cease upon any such cancellation, annulment, rescission or compromise.

The said Agent agrees to make a diligent and businesslike effort to sell the said property, and agrees to advertise the same at such times and in such manner as to create a material assistance in the selling of said property, and to pay for all such advertising.

Agent agrees to hold Trustee and Beneficiaries harmless from all loss, damage or claim arising from injury to person or property and/or out of misrepresentation or alleged misrepresentation in their acts under the agency hereby created, and hereby agrees to save and hold Trustee and Beneficiaries harmless from all loss, damage or claim arising out of any

default, defalcation or wrongdoing of themselves or of their salesmen or sub-agents.

The agent agrees that nothing herein contained is intended to, nor shall it be construed as conferring any authority on Agent to execute deeds or contracts to sell said property or to enter into contracts in the name of Trustee except temporary reservation contracts, or to incur liabilities on behalf of the Trustee and Beneficiaries; and Agent expressly agrees that except as to such temporary reservation contracts, they will enter into all contracts and incur all liabilities in their own names and behalf only, and not in the name or on the behalf of Trustee and Beneficiaries.

P. N. Snyder, hereinbefore appointed agent, by his acceptance of this Declaration of Trust, accepts the agency hereby created, subject to all the terms and conditions as herein set forth.

ARTICLE SIXTH: The Trustee shall execute all deeds and [121] other instruments in writing, whatsoever requisite and necessary for the renting, leasing, transferring or conveying of said property or any portion thereof. Such deeds and instruments shall be subject to conditions, restrictions, reservations and rights of way of record, if any, and shall also contain conditions and restrictions as shall be directed by the said Beneficiary and agreed to by the Trustee, and shall be subject to any and all ordinances of any city in which the property is located, or by any governmental or public agency creating or dealing with zones and prescribing the

classes of buildings, structures and improvements in said zones and the use thereof.

The Trustee shall be under no liability or responsibility to the Beneficiary hereunder, nor to any other person, for the validity of any condition or restriction inserted in any Agreement of Sale or Deed, nor shall the Trustee be called upon to defend any suit, proceeding or action at law or in equity, to enforce the performance of, or enjoin the breach of, any such condition, restriction or ordinance, although the Trustee may defend or prosecute such action at its election, upon the request of the said Beneficiaries, or any other person, and upon being indemnified for its costs and expenses in any such suit or suits.

ARTICLE SEVENTH: The said Trustee shall not be required to attend to or procure any insurance upon any building upon said property, or to collect or disburse any rents, thereof, so long as this Trust shall continue, but all such service shall be performed and the expenses thereof borne by the said Beneficiary or his representatives.

ARTICLE EIGHTH: During the continuance of these Trusts, the Trustee is authorized to pay: taxes levied and assessed against said property; any special assessment levied against said property or any portion thereof, of which the Trustee shall receive due notice; any other liens or charges against said property necessary for the preservation or maintenance thereof, but all of the above mentioned payments shall be at the expense of the Benefi-

ciaries hereunder, and the said Beneficiaries, by their ratification of this Declaration of Trust, covenant and agree to pay to the said Trustee sufficient moneys with which to pay the same before the same becomes delinquent.

ARTICLE NINTH: The Trustee reserves unto itself the right, and shall have the power, solely within its discretion for the benefit of the Beneficiaries hereunder, to replace, renew, or extend any debt or incumbrance upon the Trust property, or any part thereof, when the same becomes due or at any time such replacement, renewal or extension may be in the judgment of said Trustee for the best interests of this Trust or necessary to protect the Trust property; and upon such terms and upon such conditions and by such means of security as said Trustee may deem proper, including the right and power to convey the fee title to said property, or any part thereof, to such person or [122] corporation as it shall select for the purpose of executing and delivering the necessary note, mortgage, deed of trust, or other hypothecation, to evidence and secure such debt or debts and of reconveying said property said Trustee subject thereto, and when such reconveyance shall have been so made, said Trustee shall thereupon be restored to its full estate hereunder.

It being distinctly understood that any such conveyance by said Trustee, for the purposes hereinabove stated, shall in no wise be construed as a suspension or termination of this Trust or as in any

way impairing, changing or limiting the powers of the said Trustee, as herein expressed and intended. But the powers conferred by this Article shall not be exercised by the Trustee unless the Mortgagees and the Payee hereunder shall have been paid in full, except with their written consent.

ARTICLE TENTH: The Trustee shall not be obligated to convey to the said Beneficiaries, nor to any other person, any land covered by any existing Agreement of Sale, so long as such Agreement is in force and effect, but shall be and is hereby authorized to retain the title to all of said land covered by such Agreement until said Agreement has been paid in full by the holder thereof, and the land shall then be deeded to the holder of said Agreement in accordance with the terms thereof, nor shall the Trustee be obligated to convey, upon the order of the Beneficiaries hereunder, or upon the order of any party to this Trust, any property upon which an Agreement to Convey has been cancelled, until time as a cancellation thereof has been effected in form satisfactory to the said Trustee.

It is understood and agreed, however, that the Trustee, upon being indemnified by the Beneficiaries for its costs, fees, and expenses, shall upon request of the said Beneficiaries, take such legal action as may be necessary for the enforcement of the terms of any of the Agreements then outstanding and in default, or take such legal action as may be necessary to obtain a Court Decree quieting its title or obtain such other acquittance as is satis-

factory to the Trustee, to any portion of the Trust property upon which an Agreement to Convey has been, or is to be, forfeited, provided that the purchaser's unrecorded copy of such Agreement has not been surrendered to the Trustee for cancellation, but all at the cost and expense of the said Beneficiaries.

ARTICLE ELEVENTH: The costs, fees and expenses of the Trustee hereunder are hereby fixed as follows:

First: For accepting this Trust and executing this Declaration a sum of one-tenth of one per cent ($1/10$ th of 1%) of the gross selling price of said property.

Second: One per cent (1%) of the gross sales price of any sale where the sales price shall be paid in one cash payment. [123]

Third: Two and one-half per cent ($2\frac{1}{2}$ %) of the gross sales price of any sale, including interest thereon, and where the Sales price is \$6,000.00 or more and paid in deferred payments.

Fourth: Three per cent (3%) of the gross sales price of any sale, including interest thereon, and where the sales price is less than \$6,000.00 and paid in deferred payments. Three per cent (3%) on all other sums collected under the provisions of this Trust Agreement.

PROVIDED, however, that the aggregate compensation under items Second, Third and Fourth shall not be less than Two Hundred Fifty (\$250.00) Dollars per year.

Fifth: Two and 50/100 (\$2.50) Dollars per lot or part of lot for each contract in duplicate and/or mortgage and/or trust deed, and Two and 50/100 (\$2.50) Dollars per lot or any part of lot for each deed executed by said Trustee.

Sixth: The necessary cost of guarantees of title, recording charges, escrow charges, the cost of printing forms of deeds, and any other charges or expenses necessary to consummate the sales of the property.

Seventh: A reasonable compensation for any service rendered by said Trustee in the execution of this Trust for which the costs, fees and expenses are not herein provided, and including a reasonable compensation (in addition to the counsel fees and other expenses) for any service rendered under this Trust by the said Trustee in connection with any action or proceeding at law, or in paying or attending to the payment of any taxes or assessments in connection with any income tax, inheritance tax or estate tax matter affecting the Trustee, any Beneficiaries hereunder, or the Trust property or any portion thereof.

ARTICLE TWELFTH: The said Beneficiaries, by their ratification of this Declaration of Trust covenant and agree to hold and save harmless the Trustee hereunder from any and all liability, claims, demands, injuries or damages which it may suffer or sustain by reason of the acceptance of this Trust and its position as Trustee hereunder, and to protect said Trustee from any loss, damage, cost or

[124] expense by reason of the improvements of any character whatsoever made on said property, and against all expenses incurred by any Agent of the Beneficiaries or any Agent appointed by the Trustee at the request of the Beneficiaries in the handling or sale of said property, and, upon demand of the Trustee, to furnish said Trustee with such further guaranty or indemnity as said Trustee shall deem necessary to protect said Trustee and said lands against any loss, damage, cost or expense by reason of such sale or improvements.

ARTICLE THIRTEENTH: If the whole or any portion of the interest of the Beneficiaries hereunder, or any Beneficiary, if there be more than one Beneficiary, or the proceeds or avails of any such interest, shall, at any time during the terms or upon the expiration of this Trust, become liable for payment of any estate, inheritance, income or other tax, charge or assessment which said Trustee shall be required to pay, then unless such taxes shall have been fully paid when due, by someone else, said Trustee is hereby authorized, without previous notice to or demand upon any person, to pay such taxes out of the whole or any portion of the interest so affected, and for that purpose is hereby generally and specifically authorized and empowered, without previous notice or demand to or from any person whomsoever, to sell, at public or private sale, and convey sufficient portion of such interest up to the whole thereof as shall fully pay all such taxes, all costs and expenses of such sale, all the sums, together with interest thereon at seven per cent.

(7%) per annum, payable quarterly, then due the Trustee under this Trust or which it may have advanced or expended in the care, management and protection of the Trust Estate and in the payment of any said estate, inheritance, income or other taxes therein, and which said Trustee may be required to pay. Until such sums have been fully paid, they shall constitute a first lien on all the property subject to this tax, and in favor of said Trustee.

ARTICLE FOURTEENTH: If the funds in the hands of said Trustee belonging to this Trust are not sufficient to pay, when due, the principal or interest of any mortgage or deed of trust, or other debt, pledge or incumbrance against the property covered hereby, or any taxes, insurance, assessments, liens, costs charges or other expenses necessary or proper for the preservation maintenance and care of said Trust Estate or the title thereto, or the costs, charges and expenses of this Trust, then and in any such event, the Trustee is authorized to levy assessments on the Beneficiaries, from time to time, to meet such chargs and expenses, and said Beneficiaries, their heirs, successors and assigns, do by their approval and ratification of the terms of this Declaration of Trust, well and truly bind themselves to pay to the Trustee their proper proportion thereof on or before the day upon which the same shall become due and payable.

AND in the event that any one or more of said Beneficiaries shall fail to so pay his proportionate share of any such sum or [125] assessment on or

before the day it shall become due and payable, said Trustee, or any one of the other Beneficiaries of the Trust may pay such share to the end that said Trust Estate, the trusts herein contained, and all parties interested herein, may be protected; and any such Beneficiary shall be entitled to receive Seven per cent (7%) interest upon any sums so advanced, from the date of advancement until repaid.

IN THE EVENT of such default and exercise of the right above granted, the Trustee shall, upon the written demand of any party making such payment, and after Thirty (30) days demand on such defaulting Beneficiary for the repayment of such amount advanced (if such amount advanced is not repaid within Thirty (30) days after such demand), sell the interest of such defaulting Beneficiary hereunder, and all his interest in and to the proceeds and avails arising or growing out of this Declaration of Trust, or so much thereof as it shall be necessary to sell in order to pay to the party making such payment the amount so paid by him, with interest thereon at the rate of seven per cent (7%) per annum, the expenses of such sale and the compensation of the Trustee in the sum of One Hundred (\$100.00) Dollars.

Such sale shall be made subject to all of the terms and conditions of this Trust at either public or private sale, at the option of the Trustee.

If said sale shall be made at private sale, the interest of such defaulting Beneficiary shall be sold for a price of not less than the amount such default-

ing Beneficiary shall have paid on account of said purchase price and the costs of such sale. Should the Trustee elect to sell such interest at public auction, then said sale shall be made in the following manner, to-wit:

Said Trustee shall first publish notice of the time and place of such sale, with a brief description of the interest of such defaulting Beneficiary hereunder to be sold, at least once a week for four successive weeks in some newspaper published in the County of Los Angeles, State of California, and may, from time to time, postpone such sale by publication in the same newspaper, or, at its option by public announcement thereof at the time and place of sale so advertised; and on the date of sale, or on the date to which such sale may be postponed, said Trustee shall sell the Beneficial interest hereunder so advertised, or any portion thereof, at public auction, at such place in the City of Los Angeles, State of California, as it may have designated, to the highest bidder, for cash, IN LAWFUL MONEY of the United States, and any of the Beneficiaries hereunder, or any other person, may bid and purchase at such sale, and thereafter such purchaser shall have all of the rights and privileges of an original Beneficiary hereunder, subject, however, to all of the terms and conditions of this Trust.

AND said Beneficiaries do hereby, by their approval of this Trust, jointly and severally transfer and convey to said Trustee title to said Beneficial Interest or Interests, sufficient to enable said Trus-

tee to convey and assign said interest or interests upon a sale thereof in event of a default as above provided. [126]

Upon a sale of said interest at either public or private sale said Trustee shall execute and deliver to the purchaser or purchasers, his or their heirs or assigns, an assignment of the interest so sold, and out of the proceeds thereof, shall pay:

1st: The expenses of such sale and the compensation of the Trustee in the sum of One Hundred (\$100.00) Dollars in LAWFUL MONEY of the United States, which amount shall become due and payable upon any demand made as hereinbefore provided for the sale of the interest of such defaulting Beneficiary.

2nd: To the person having paid the same, the amount paid for the account of said defaulting Beneficiary as above provided, together with interest thereon at the rate of seven per cent (7%) per annum, from the date of such default to the date of receipt by the Trustee of proceeds from such sale; and

LASTLY: The balance or surplus of such proceeds, if any, to the order of such defaulting Beneficiary, his heirs or assigns.

IN THE EVENT of a sale of the interest of such defaulting Beneficiary, or any part thereof, at either public or private sale, and the execution of an assignment thereof under these trusts, then the recitals therein of default, and of such publication of notice of sale, and of a demand that such sale

should be made, postponement of sale, terms of sale, sale, purchaser, payment of purchase money, and of any other fact or facts affecting the regularity or validity of such sale, shall be conclusive proof of such default, of the due publication of such notice, that such sale was made on due and proper demand of all the facts recited in said assignment; and such assignment, with such recitals therein, shall be effectual and conclusive against the said defaulting Beneficiary, his heirs or assigns and all other persons, as to such default, publication and demand, and as to all other facts recited therein, and the receipt for the purchase money contained in any assignment executed to a purchaser as aforesaid shall be sufficient to discharge such purchaser from all obligation to see to the proper application of the purchase money.

ARTICLE FIFTEENTH: The interest under this Trust of each Beneficiary and the Agent hereunder is personal property and that no such Beneficiary or Agent has any right, title or interest in or to the property covered hereby, and has no right or power to in any manner apply for or secure the dissolution or termination of this Trust, or the partition or the division of any of the Trust property; the sole right and power of such Beneficiary hereunder being to enforce the performance of the terms of this Trust, as expressly set forth in this Declaration.

PROVIDED, HOWEVER, that after the payment in full of any [127] indebtedness that may

hereafter be secured hereby, and the termination of the Agency Appointment, if any, made in accordance with the terms of this Trust, all of the Beneficiaries of this Trust, by a jointly written direction of the Trustee, may close and terminate this Trust. In no event, however, shall the Trustee be required to convey any property then covered by any existing Agreement to Convey executed by the Trustee, but the Trustee is expressly empowered and directed to retain the title to the property covered by any such existing Agreement to Convey, for the benefit of the real owner thereof. The proceeds and avails received from any such Agreement to Convey shall be applied by the Trustee to the payment of any unpaid commission due, and to the costs, fees and expenses of the Trustee, and the balance of the proceeds shall be paid by the Trustee to the then real owner of such Agreement to Convey.

ARTICLE SIXTEENTH: The said Trustee makes no representation of fact as to the title to the property held under this Trust, but has the right to assume that the Guarantee of Title issued by any Title Company doing business in the County in which the Trust property, or some part thereof, is situated, correctly shows the record title to said property and the incumbrances thereon.

ARTICLE SEVENTEENTH: The Beneficiaries may sell, transfer and assign all or any part of their beneficial interest herein, provided that no sale or transfer of any beneficial interest hereunder shall be valid or binding upon said Trustee until an exe-

cuted original of the assignment or other instrument evidencing such sale or transfer has been filed with said Trustee with a transfer fee of \$10.00 for each transfer, and shall by endorsement thereon be accepted by the Assignee and Trustee; excepting only where such interest may pass or be transferred by Decree or Order of Court, and then only upon satisfactory proof of the regularity and validity of the proceedings in such matter being presented to said Trustee.

ARTICLE EIGHTEENTH: This Trust shall not cease or terminate in any event until all the costs, fees and expenses of said Trustee hereunder shall have been fully paid, nor until each party to this Trust has delivered to the Trustee for cancellation, its, his or her certified copy of this Declaration of Trust, together with the Certificate of Beneficial Interest attached thereto, if any.

ARTICLE NINETEENTH: The term "Beneficiary" used herein shall include Beneficiaries; that the masculine gender shall include the feminine and neuter genders; that the singular number shall include that plural number, all wherever and as the context of the language herein contained shall indicate. [128]

ARTICLE TWENTIETH: The conditions and provisions hereof shall inure to and bind the Beneficiaries as joint tenants and their assigns and also the heirs, legatees, devisees, administrators, executors, successors and assigns of the surviving joint tenant, and shall also inure to and bind all other

parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

IN WITNESS WHEREOF, the said SECURITY TRUST & SAVINGS BANK has caused these presents to be executed in its corporate name by its Vice-President and Assistant Secretary, thereunto duly authorized, and its corporate seal to be hereto attached as of the 12th day of January, 1927.

SECURITY TRUST & SAVINGS BANK,

By J. VEENHUYZEN,

Vice-President,

By E. B. PENTZ,

Assistant Secretary.

ROBERT JAMES RICHARDS,

ARABELLA GRACE RICHARDS,

Beneficiaries.

I, the undersigned, appointed Agent, accept such appointment subject to all the terms and conditions of this Declaration of Trust.

P. N. SNYDER, Agent.

[129]

RICHARDS' UNIT #3
TRACT #9797

January 24, 1927

Lot No.	Price	Lot No.	Price
1	6,400.00	29	1,650.00
2	8,750.00	30	1,650.00
3	8,750.00	31	1,650.00
4	8,750.00	32	1,650.00
5	8,750.00	33	1,650.00
6	8,750.00	34	1,650.00
7	10,500.00	35	2,250.00
8	15,000.00	36	2,250.00
9	8,750.00	37	1,500.00
10	8,750.00	38	1,500.00
11	8,750.00	39	1,500.00
12	8,750.00	40	1,500.00
13	8,750.00	41	1,500.00
14	14,800.00	42	1,500.00
15	1,900.00	43	1,500.00
16	1,750.00	44	1,500.00
17	1,750.00	45	1,500.00
18	1,750.00	46	1,500.00
19	1,750.00	47	1,650.00
20	1,750.00	48	5,625.00
21	2,500.00	49	6,250.00
22	2,450.00	50	10,000.00
23	1,800.00	51	12,000.00
24	1,900.00	52	6,250.00
25	2,100.00	53	6,250.00
26	1,950.00	54	6,250.00
27	1,750.00	55	12,000.00
28	1,750.00	56	1,550.00

RICHARDS' UNIT #3 (Continued)
TRACT #9797

Lot No.	Price	Lot No.	Price
57	1,600.00	86	2,250.00
58	1,600.00	87	2,250.00
59	1,600.00	88	1,700.00
60	1,600.00	89	1,700.00
61	1,600.00	90	1,700.00
62	1,600.00	91	1,700.00
63	1,675.00	92	1,700.00
64	1,675.00	93	1,650.00
65	1,675.00	94	1,650.00
66	1,675.00	95	1,650.00
67	1,675.00	96	1,650.00
68	2,250.00	97	1,650.00
69	2,250.00	98	1,650.00
70	1,750.00	99	1,600.00
71	1,750.00	100	1,500.00
72	1,750.00	101	10,000.00
73	1,750.00	102	6,250.00
74	1,750.00	103	6,250.00
75	1,750.00	104	6,250.00
76	1,875.00	105	6,250.00
77	2,750.00	106	6,150.00
78	2,750.00	107	1,600.00
79	1,875.00	108	1,700.00
80	1,775.00	109	1,900.00
81	1,775.00	110	1,800.00
82	1,775.00	111	1,750.00
83	1,775.00	112	1,300.00
84	1,775.00	113	1,200.00
85	1,775.00	114	2,100.00

RICHARDS' UNIT #3 (Continued)
TRACT #9797

Lot No.	Price	Lot No.	Price
115	1,750.00	136	1,750.00
116	1,600.00	137	1,750.00
117	1,600.00	138	1,750.00
118	1,650.00	139	1,750.00
119	1,700.00	140	1,750.00
120	1,700.00	141	1,750.00
121	1,700.00	142	2,350.00
122	1,700.00	143	2,300.00
123	2,350.00	144	1,700.00
124	2,200.00	145	1,700.00
125	1,775.00	146	1,700.00
126	1,775.00	147	1,700.00
127	1,775.00		[130]
128	1,775.00	148	1,650.00
129	1,775.00	149	1,700.00
130	1,775.00	150	1,750.00
131	1,850.00	151	1,700.00
132	2,350.00	152	1,900.00
133	1,750.00		
134	1,750.00		<hr/> 459,250.00
135	2,400.00		

APPROVED Jan. 28/27

R. J. RICHARDS

P. N. SNYDER

Photostatic copy of Petitioner's Exhibit "I" is as follows: [131]

Photostatic copies of Petitioner's Exhibits "J" and "K" are as follows: [133]

ESTD 1927
136
3rd
M.P.

Approximate
true
alt

TRACT N99797
IN THE COUNTY OF LOS ANGELES
SCALE: 1"=100'

SHEET 6 OF 6 SHEETS

NE 1/4 Sec 10 T10N R10E S10
N 1/4 Sec 10 T10N R10E S10
N 1/4 Sec 10 T10N R10E S10

Round 2-E Stone
N 1/4 Sec 10 T10N R10E S10
N 1/4 Sec 10 T10N R10E S10

Round 2-E Stone
N 1/4 Sec 10 T10N R10E S10
N 1/4 Sec 10 T10N R10E S10

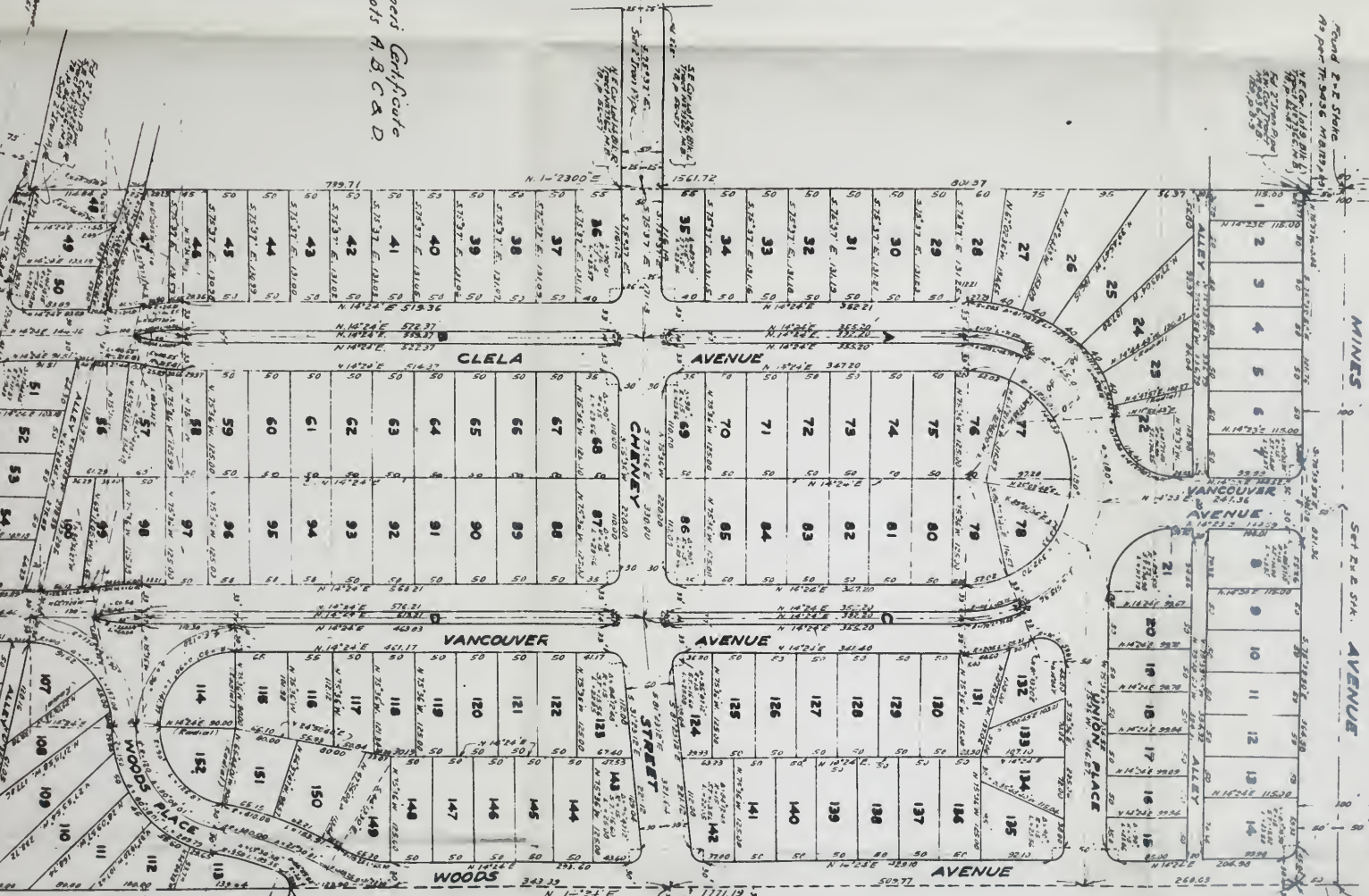
FRASER AVENUE

CLELA AVE.

VANCOUVER AVENUE

WOODS AVE.

MINES AVENUE



Note:
See Unsub. Certificate
regarding lots A, B, C & D

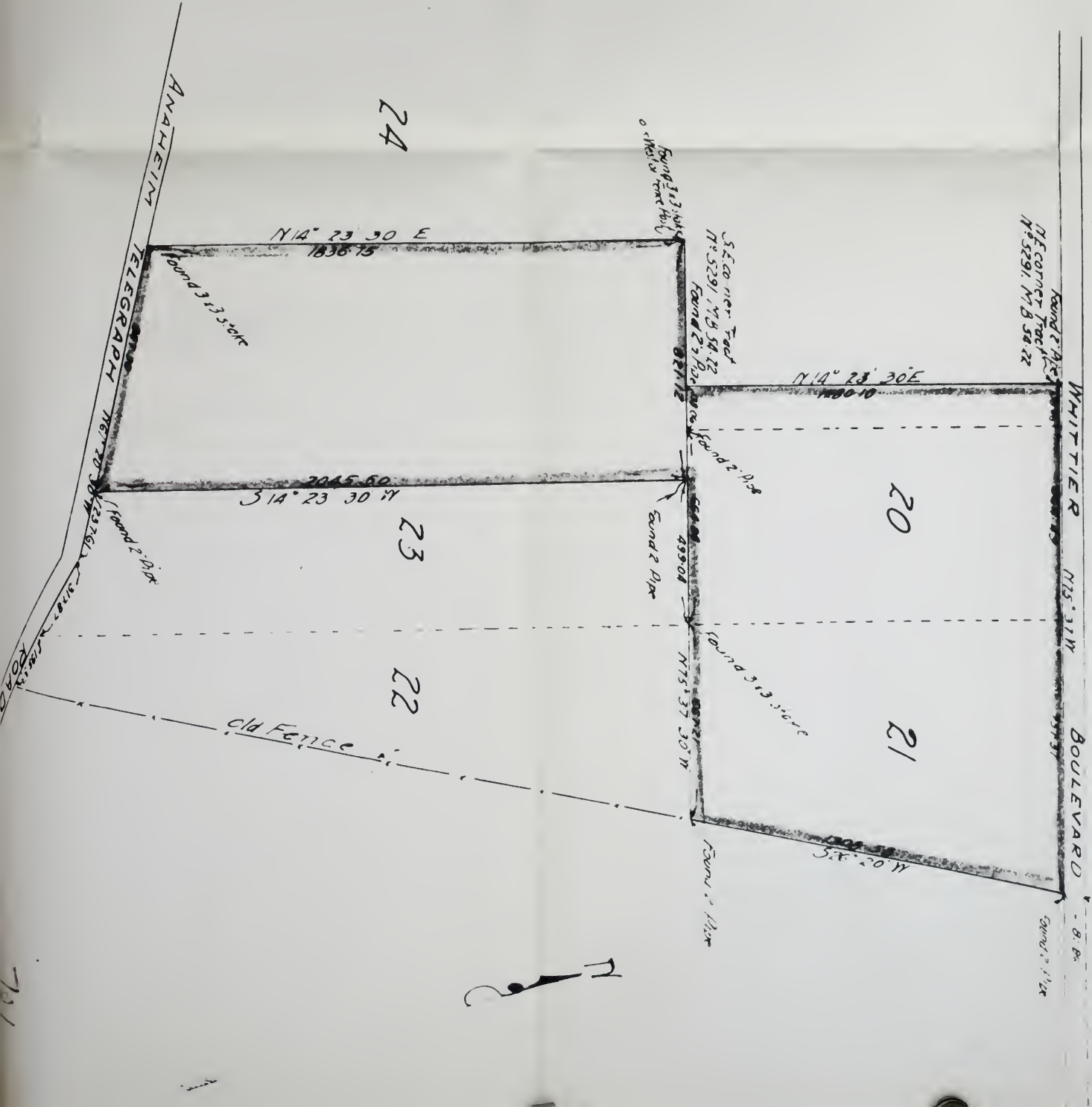
Exhibit "I"

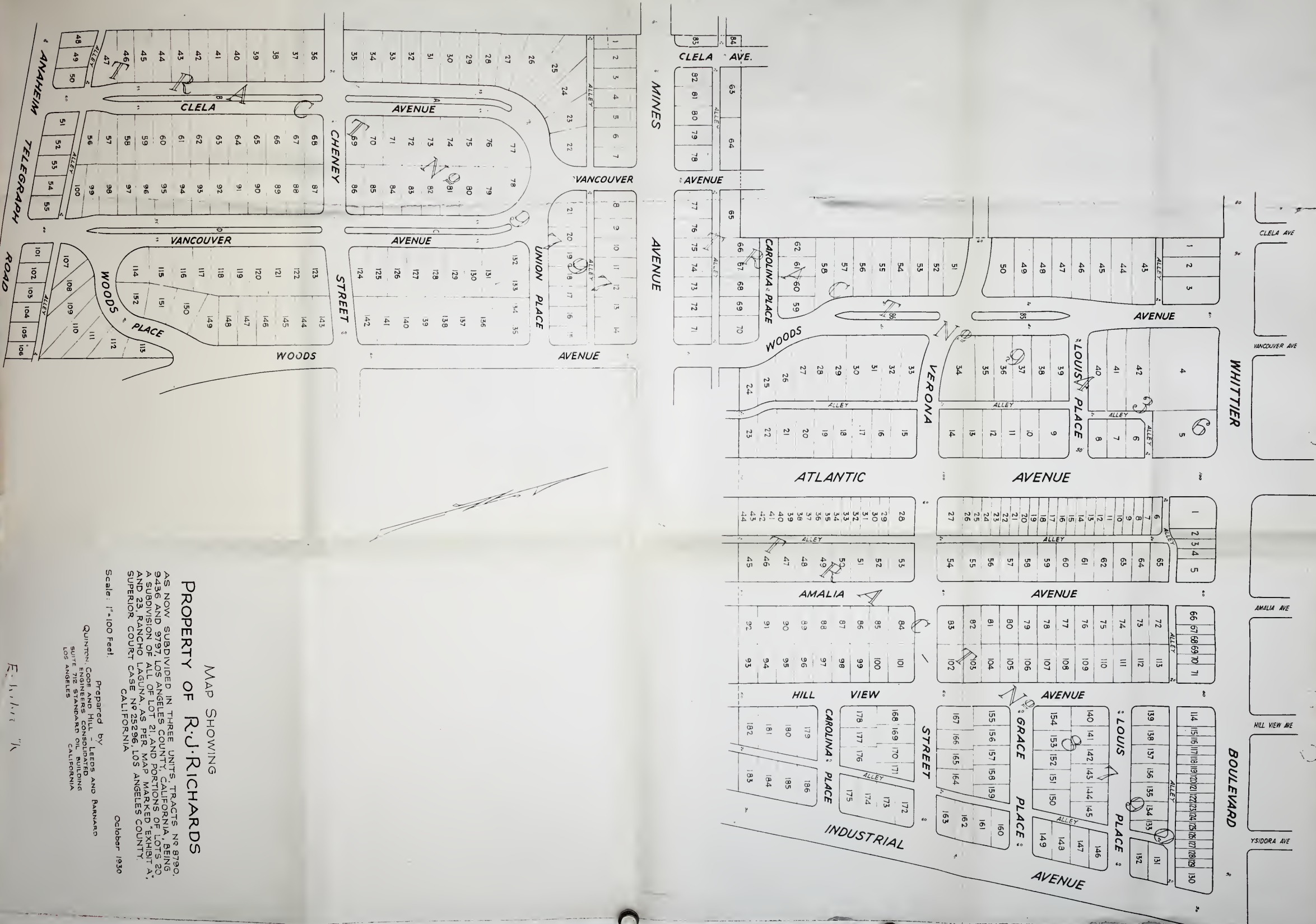
MAP SHOWING PROPERTY OF
R. J. RICHARDS
located between
Whittier Boulevard and the Anaheim-Telegraph Road
Los Angeles County, California.

LEEDS AND BARNARD
Consulting Engineers
Los Angeles, California.

scale 400 ft. 1 inch

April 1923





MAP SHOWING PROPERTY OF R.J. RICHARDS

AS NOW SUBDIVIDED IN THREE UNITS, TRACTS NO 8790, 9486 AND 9797, LOS ANGELES COUNTY, CALIFORNIA, BEING A SUBDIVISION OF ALL OF LOT 21, AND PORTIONS OF LOT 5, 20, AND 23, RANCHO LAGUNA, AS PER MAP MARKED EXHIBIT A, SUPERIOR COURT CASE NO 25296, LOS ANGELES COUNTY, CALIFORNIA

Scale: 1"=100 Feet.
Prepared by
QUINCY CODE AND HILL - LEEDS AND BARNARD
ENGINEERS CONSULTING
SUITE 712 STANDARD BUILDING
LOS ANGELES
October 1930

The affidavit of R. J. Richards dated September 15, 1933, is in the words and figures as follows:

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES.—ss.

ROBERT JAMES RICHARDS, being first duly sworn, deposes and says:

That at no time did he ever personally sell or offer for sale any real estate in Tracts No. 8790, 9436 or 9797, in the County of Los Angeles, State of California. That affiant at no time ever solicited any person to buy any lot in said tracts or advertised said property, or any portion thereof, for sale by himself or by the bank, as trustee, or any other person; and that on each and every lot sold in said tracts there was paid a commission to the real estate agent selling the same, and that any and all contacts and business with said purchasers was handled by said agent, and that affiant at no time had anything more to do with the sale of said tracts than if said tracts had not belonged to affiant, except to fix the prices at which the same would be sold. That the real estate agent selling said real estate was at all times engaged in the real estate business, and at all times maintained an office for said purpose and was at no time under the control or direction of affiant, but carried on and conducted his business in such manner as he deemed best and without any control, guidance or direction of affiant. [136]

That in addition to the reasons stated in the affidavit of affiant dated October 20, 1930, it was

desirable for affiant to dispose of said real property because of the subdivided character of the entire neighborhood which eliminated the possibility of further farming operations by other persons in the vicinity. That affiant used the real property mentioned as a base of operations in carrying on his business as a produce shipper. Because of the ownership by affiant of such property affiant was enabled to make a better approach to other persons raising lettuce in the vicinity and in the shipping of lettuce was able to use his own product as a surplus to be shipped when the crops of other produce growers in the vicinity were not immediately available for shipment or their price was in the opinion of affiant excessive at such time. When produce similar to that being raised by affiant could no longer be raised in the neighborhood, by reason of the subdivision thereof, affiant's property did not furnish a satisfactory base for his shipping operations, since there were not other similar crops in the neighborhood to be acquired and shipped by affiant, except his own crop, and affiant could not, therefore, maintain a constant car lot shipping method which was possible when other produce growers were operating in the vicinity and affiant was enabled to use his own crops to fill up short car lot loads or supply affiant's shipping requirements when the market price of other growers' produce was excessive. [137]

That in reference to the sale of lots in the tracts above mentioned and involved in this proceeding, affiant devoted no time whatever to the sale thereof

or to any other matters in connection therewith, except to have his auditor from time to time check the amounts due from the trustee by reason of the sums received by the bank, as trustee, on account of the sales made in said trusts by P. N. Snyder, who had the exclusive handling and sale of the same during all times referred to in affiant's petition and during the times referred to in affiant's affidavit dated October 20, 1930, and above referred to.

(SIGNED) ROBERT JAMES RICHARDS.

Subscribed and sworn to before me this 15th day of September, 1933.

[Seal]

(SIGNED) MURIEL P. MONTGOMERY,
Notary Public in and for the County
of Los Angeles, State of California.

It is agreed between the parties that the foregoing statement contains all the evidence introduced at the hearing of this case before the United States Board of Tax Appeals [138] material to the issues in controversy and is intended to be filed as a part of the record on appeal this the 25 day of March, 1935.

C. E. McDOWELL,
Attorney for Petitioner.

The foregoing statement of the evidence is agreed to by the respondent.

ROBERT H. JACKSON,
Attorney for Respondent.

Approved and ordered to be filed this the 25th day of March, 1934.

(Sgd) EUGENE BLACK,

Member

United States Board of Tax Appeals.

[Endorsed]: Filed Mar. 25, 1934.

Lodged Dec. 17, 1934. [139]

[Title of Court and Cause.]

PRAECIPE FOR RECORD
TO THE CLERK OF THE UNITED STATES
BOARD OF TAX APPEALS:

You will please transmit and deliver to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, copies duly certified as correct of the following documents and records in the above-entitled cause, in connection with the petition for review by the said Circuit Court of Appeals for the Ninth Circuit, hereto filed by the above-named taxpayer:

1. Docket entries of proceedings before the Board of Tax Appeals.

2. Pleadings before the United States Board of Tax Appeals by the respective parties and exhibits referred to therein and made a part thereof. [140]

3. Opinion and decision of the United States Board of Tax Appeals.

4. Petition for review, together with proof of service of notice of filing petition.

5. Statement of evidence agreed to by the parties and made a part of the record by order of the Board.

6. Orders of the Board enlarging the time for settlement, preparation and transmission of the record. (Not included in record.)

7. Stipulation by the parties designating the United States Circuit Court of Appeals for the Ninth Circuit as the Circuit Court for reviewing decision of the Board.

8. This praecipe.

(SIGNED) C. E. McDOWELL,
Attorney for Petitioner.

Service of the foregoing praecipe, together with receipt of a copy thereof, is acknowledged this the 25th day of March, 1935.

(SIGNED) ROBERT H. JACKSON,
Assistant General Counsel,
Bureau of Internal Revenue,
Attorney for Respondent.

[Endorsed]: Filed Mar. 25, 1935. [141]

[Title of Court and Cause.]

CERTIFICATE

I, B. D. Gamble, clerk of the U. S. Board of Tax Appeals, do hereby certify that the foregoing pages,

1 to 141, inclusive, contain and are a true copy of the transcript of record, papers, and proceedings on file and of record in my office as called for by the Praecipe in the appeal (or appeals) as above numbered and entitled.

In testimony whereof, I hereunto set my hand and affix the seal of the United States Board of Tax Appeals, at Washington, in the District of Columbia, this 8th day of April, 1935.

[Seal]

B. D. GAMBLE,

Clerk,

United States Board of Tax Appeals.

[Endorsed]: No. 7835. United States Circuit Court of Appeals for the Ninth Circuit. R. J. Richards, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Transcript of the Record. Upon Petition to Review an Order of the United States Board of Tax Appeals.

Filed April 13, 1935.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.